A VINDICATION OF THE FREEDOM & LAWFULNES of the late Generall Assembly BEGUN At St ANDREWS And Continued at DUNDEE;

In Answer to the Reasons alledged against the same in the Protestation and Declinatore given in at St *Andrews*, and in another Paper contrived since, and spread abroad amongst such as were conceived more inclinable to follow that Way, but kept up from others.

Now Published by a LOVER of the CHURCH of *SCOTLAND*,

For Preventing and Removing Prejudices and Misrepresentations which some Emissaries have endeavoured to possesse us with here, who are strangers to the true Estate of the late Differences there, by dispersing Papers against the Judicatories of that Church, and Disseminating Calumnies against their Brethren and Countrymen.

London, Printed in the Year 1652.

A VINDICATION

OF THE

FREEDOM AND FULNESS

OF THE LATE

GENERAL ASSEMBLY

OF THE

CHURCH OF SCOTLAND,

AND

Answer to the Reasons alledged against the same in the Protestation and Declinature, Presented to the Synod of Merse and Teviotdale, and Inserted in their Records, March 29. 1720.

EDINBURGH, Printed by JOHN MACKEN, Printer to the Church of Scotland, 1721.

A Vindication of the Freedom and Lawfulneſſe, and ſo of the Authority of the late generall Aſſembly begun at S. Andrews, and continued at Dundee.

§. 1.

BEfore I fall upon the examination of the Reaſons brought a gainſt, and the diſcovery of the falſe aſperſions caſt upon th Aſſembly by theſe papers mentioned, I do obteſt thee, Reader whoſoever thou be into whoſe hands this Vindication ſhall come, in the fear of God, and as thou loveſt not to be led away with errour, but to know and be led into the truth, that to the effect thou maiſt impartially ponder this debate, and for thy edification diſcern on what ſide truth and juſtice is; thou wouldeſt take heed that thy judgement be not either blindefolded or byaſſed and fix'd in prejudice by ſomewhat which may have ſtrong influence this way, and yet is meerly extrinſecall to the cauſe, as to the truth or falſhood, juſtice or injuſtice. There be three things whereof one or more have, I doubt not, had influence in the miſleading of ſome already in this matter, and may yet I ſuſpect miſcarry others, and fix ſome that are already wrong in their errour; and therefore I muſt warn the Reader that he come not to the reading of this paper with a minde pre-occupied with any of theſe extrinſecall reſpects.

§. 2. 1. Self-intereſt. It is far from my thoughts to charge this upon all who have concurred in proteſting againſt and declining the Aſſembly as the motive that led them thereupon; I am perſwaded of many of them that they followed that courſe in the ſimplicity of their heart; yet I leave it to all judicious men to conſider, and give their judgement, if it be not very likely that ſomewhat of this kinde was the ſpring that moved ſome the prime contrivers and ſticklers in this buſineſſe, who having adventured upon ſuch high courſes and attempts as they had been upon, and not being able to abide triall in theſe things by an Aſſembly, wherein themſelves were not able to bear the ſway, and carry things to their minde, and finding others in the ſimplicity of their heart with them diſliking ſome publike reſolutions and actings, and ſo apt to be led on with them upon any courſe that could be preſented with the colour of a teſtimony againſt theſe reſolutions and actings, found it ſafeſt for their intereſt in theſe times of confuſion, rather alto-

gether to disclaim the authority of the Assembly, then to hazard upon a fair and orderly triall of their matters; nea, have we not seen some already shipin and land [illegible] of the profession, according as they conceived the winde of affairs served the time to blow, with or against it, to credit or discredit, advantage or disadvantage. Conscientious men would beware now that this same motive of interest do not prevail over them to neglect due examination of the grounds of that profession, or to close their eyes against such light as Kaplr may be held forth in this paper to the discovery of the lightness and non-relevancy of these grounds and reasons. Therefore present reputation and disreputation in the estimation of men, advantage and disadvantage would be to thee and thy conditionout of thy sight for a while, until thou hast pondered and compared reason with reason.

§. 3. 2. Estimation of the godlinesse of the persons the authors or abettors of this Protestation: God forbid I should think, say, or advise any thing to the prejudice of godlinesse or godly persons; neither shall I question their godlinesse: My judgement concerning some, yea, many of them, is very positive, having by experience and acquaintance seen (I must say) much of the image of God in them; And for others, I take not upon me to judge them nor yet think it impertinent or fit to say for counter-ballancing, that there are godly men not a few on the other side too, some that were in Christ before them, men that have suffered for the truth and cause of God, when others had not the honour to be doers for it; And will yet (I no waies doubt) in the Lords strength suffer for it, if he shall call them to it, though some uncharitably and rashly (to say the best of it) spare not to traduce them as apostates and backsliders: But this is it I would say, that men should take heed that they make not a snare to themselves of the opinion, yea, of the reall conviction they have of the godlinesse of any persons, by approving, taking up, or following their sayings, opinions, or practises, without due examination and triall, upon this account, because they are godly persons from whom such things proceed: It is meet and expedient for such as would, in this dangerous time, walk circumspectly and shun snares, to remember as to this present caution two things.

1. That true godlinesse is not of such perfection in any on this side eternity as doth exempt them from all erring whether in judgement or practice, nor yet from stiffe maintaining of mistakes when once they have turned aside unto them. *Luther* was a godly man, and had much of Christ in him, I think none of them interessed in the present businesse will compare themselves with him, yet who knows not what great errours he held in the matters of God, and maintained them not only stifly but violently, to the great prejudice of religion, and obstruction of the Work of Reformation, under which the Reformed Kirks do groan yet to this day.

2. How wofull a snare this, I mean not godlinesse, but an overweening conceit of persons reputed to be godly, hath proved in the neighbour Nation: hath not this been one of the chiefest stratagems and engines whereby Satan hath prevailed to marre the true work of Reformation so happily and hopefully begun there, and fil'd that land with unparrel'd confusions, under which now it groaneth; *Felix quem faciunt aliena pericula cautum*; It were good for us to learn wit by other mens dangers, and to be warned by the beacons which others shipwrack have set up for us, lest we make shipwrack upon the same shelves, and then say but too late *Non putavimus*, prove ill Scottish men, wise behinde the hand, *Prove all things*, from whatsoever hand they come, *and hold fast that which is good*.

§. 4.

§. 4. 3. Pretences of his professions of good, upright and zealous intentions toward the cause of God and welfare of the Kirk of God in this Land. I shall not nor dare question the uprightnesse of the intentions of some, yea, many of them this way. I am verily perswaded of some of them, that they are far from doing any thing intentionally, or formally and directly intending to overthrow or wrong any of the Ordinances of Christ, sealed in this Kirk or the peace thereof: and that if they be led on in any course on the matter, prejudicial to any of these, it is as many went out with *Absalom, in the simplicity of their heart.*

But 1. It would be remembred that men may be very zealous in their intentions for God, and yet that zeal be not according to knowledge; where there is much zeal for an end, there may be also much mistaking about *Midses* towards the end: and where there is much and clear knowledge about many things, there may be much mistaking about one or more particulars: a good intention is necessary that a man may be approved before God in his action, but it is not enough to make his action good or imitable by others, it must be warranted by the Word of God or sound reason: And certainly this is the chief thing to be considered by thee, ere thou allow, follow, or comply with the course of any other man; not what good intentions or zeal they do professe, but what good warrant or reason they have for their course: Ay but may some great knower say, This is poor, who knows not this? this is a common known principle of acting, that we should not lippen to mens professions of strength, honest and good intentions, but look what warrant they have for their actions. It is true, it is a common and plain principle, but common principles are better known then made use of, and have need to be pressed that they may be heeded in our actings, and amongst others this especially in these times: great professions of honest and straight intentions and purposes, especially made by men who are presumed to have much knowledge, and have been found in many things right, are ready to make others who are credulous and more simple, oft times secure and negligent to prove and try their actions, and so oft times to suffer themselves to be led out of the way.

2. Albeit, as I said before, I do not question the uprightnesse and sincerity of the professions of some concerning their intentions and affection, yet I shall desire the Reader to compare the professions made in the narrative of the Protestation in hand, with some late practises of some that had hand therein, and these not of the low Form.

§ 5. 1. They profess, that *while they live it shall be acknowledged by them how gracious God hath been in giving to this Church pure Ordinances, and that they desire mercy and grace to adhere to the doctrine, discipline, worship, and government established in the Land.* This indeed is a good profession, but supposing this (which is of it self certain and evident) that when we speak of precious estimation, and adhering to the discipline and government established in this Kirk, we must conceive this in relation to these Ordinances, not only in the abstract, and *in dogmate*, but also *in concreto*, and as they are *in actu exercito*, actually existing, and exercised in judicatories constituted accordingly. Let a man professe what he will of soundnesse and constancy in point of judgement, concerning the discipline and government established in the Kirk, yet if he be found a contemner of the exercise of that discipline, and of the lawfull judicatures invested with the government, no wise man will acknowledge that man to have a due estimation of, or to be a constant adherer unto the Ordinances, except, may be, so farre as he holds somewhat of them in his own hand, and that is himself. Nay, such professions are but

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χρηστολογίας and ἀλογίας good words and fair ſpeeches *to deceive the hearts of the ſimple.* This laid down, let any ingenuous and indifferent man take into conſideration but ſome practiſes of the proteſters, and judge how agreeable they are to the former profeſſion of reſpect, and adhering unto the diſcipline and government ſetled in this Kirk.

1. Condemning of acts and conſtitutions of ſupream judicatories of this Kirk, moſt unanimouſly concluded (themſelves being preſent, and not contradicting, but poſitively by their votes conſenting thereto) and that not in a private way, but in a Remonſtrance publikely emitted to the world, and preſented to the State, without having ſo much reſpect to theſe judicatures, and (which due eſtimation and adhering unto the eſtabliſhed government of the Kirk did require) once to have had recourſe to them, firſt by ſupplication or deſire to reexamine or take to their conſideration again thoſe acts and conſtitutions, yea, refuſing to apply themſelves to ſuch a way as that, when adviſed and earneſtly preſſed thereunto as more orderly, by ſome to whom they communicated the deſign of the Remonſtrance. The former part of this is evident from the Weſtern Remonſtrance, condemning the Treaty with the King, and the cloſing thereof, though allowed, approved, and ratified by the general Aſſembly, 1650. If it be ſaid, that that Remonſtrance was communicated to the Commiſſioners of the Kirk before it was preſented to the State; That is true, but beſide that the Commiſſioners had not power to judge the acts and conſtitutions of the generall Aſſembly, it was communicate to them meerly to have had their concurrence in preſenting it to the State, if that could have been obtain'd, but not with any deſire to adviſe and give their judgement upon the matter contained in it: yea, theſe that came with it, when required, if they had any power committed to them to change any thing of it, they plainly declared that though ſome expreſſions might be changed, yet they had not power, and were not to alter one iota of the matter, ſo determined were they of themſelves, and antecedently to the cognition of the publike judicatories. The latter part is evidenced by ſome Letters written to the Lords Regiſter about the time of the contriving of that Remonſtrance from *Edenburg*, and intercepted at the ferry of *Airth* or thereabout.

2. Publike vilifying of Acts of the Generall Aſſembly, as not to be preſſed in matters of conſcience; witneſſe that ſpeech uttered publikely in the Commiſſion at *Sterlin*, where in conference upon the Weſtern Remonſtrance, when the Moderator did once and again mention and preſſe the act of the Generall Aſſembly, approving the cloſe of the Treaty with the King, and the Declaration of the ſame Aſſembly emitted when the Engliſh Army entred the Land, againſt that part of the Remonſtrance condemning the cloſe of the Treaty, It was publikely anſwered, *Preſſe me not with humane conſtitutions in matters of conſcience*; All that were preſent who were many from ſeverall parts of the Kingdom beſides the Commiſſioners can remember this.

3. Tumultuous deſerting and running out of the publick judicature of the Kirk, and threatning the ſame, becauſe of ſome matter carried therein contrary to their own minde: Witneſſe their carriage at the Commiſſ. at *Perth, Nov.* 1650. where becauſe of that moderate ſenſe given then upon the Weſtern Remonſtrance, many of them did in a diſorderly way deſert and leave the Commiſſion, never deigning to come to any meeting thereof afterward; Some of them as they were a going out, threatning from an high place with a loud voice in ſuch words as theſe: *Well we hope we ſhall get one day a bout of it yet.*

4. Taking

4. Taking upon them to determine in matters of moſt publike and greateſt concernment antecedently unto, and without ſo much as once ſeeking or waiting for the judgement of the publike Judicatories, to which the determination of ſuch matters doth belong, and private men and inferiour judicatories ought to have their recourſe, before they take upon them to emit any determination thereanent; witneſſe the Weſtern Remonſtrance determining the excluſion of the Kings intereſt out of the quarrell of the defenſive war before any advice or ſentence thereupon given or once ſought from any publike judicatory.

5. Emitting cauſes of a publike faſt, and ſending them abroad to all the preſbyteries, and congregations of the Kingdome, being but private men not having authority nor being a publike judicatory: witneſſe the faſt appointed and cauſes thereof emitted from *Sterl.* Sept. 1650. Wherein take theſe things in conſideration.

1. The meeting that emitted theſe cauſes was no publike judicatory, but ſome Miniſters that attended the Army and ſome of the Commiſſ.

2. That ſundry godly and underſtanding men in that meeting earneſtly endeavoured that the condeſcending upon publike cauſes of the wrath of God manifeſted in that defeat at *Dunbar*, as cauſes of a faſt might be delayed untill the next week following, that there might be a full meeting of the Commiſſioners conveened to go about that purpoſe with authority and more deliberation, but were born down by the vehemency and headſtrong forwardneſſe of ſome who are chief men in this Proteſtation, profeſſing ſo great reſpect, to the eſtabliſhed government of this Kirk.

3. That there was no neceſſity of ſuch haſte in emitting particular cauſes (there was rather much danger in doing it upon ſo ſhort deliberation) ſeeing the publike calamity and the known publike ſins was cauſe evident enough to all of humiliation for the preſent, and within leſſe then ſix daies a meeting of the Commiſſioners might have been conveened (as it was *de facto* conveened within that ſpace) to condeſcend upon particulars. If this, or all theſe things being conſidered was not uſurpation and contempt of lawfull authority, and the government eſtabliſhed in this Kirk, I know not what is. To ſay that the Commiſſion in their meeting is that followed did approve of theſe cauſes emitted by them, it doth not avail to clear them from uſurpation and contempt of the government: For to ſay nothing of that, that the Commiſſion did both alter ſomewhat in them, and adde to them a neceſſary article of recommending prayer for the King (as well as mourning for his ſins) in the humiliation which ſeemed to have been purpoſely left out, as appears by the debate made about it, when it was motioned and deſired in the Commiſſion for the ſpace of half an hour at leaſt, to ſay nothing of this, that which the Commiſſioners approved was the matter of theſe cauſes, and not the way of emiſſion wherewith many of the Commiſſioners ſhew themſelves exceedingly diſſatisfied as a practice without example, and a preparative tending to the overthrow of the authority of the government, but did forbear to challenge it at that time for peace ſake.

6. Suffering ſome in their publike meeting at *Edinburg*, contrary to ſolemn Declaration and Oath made both in our *Nationall Covenant* and *Solemn League and Covenant* by writ to repreſent this as a main cauſe of Gods wrath upon the Land that we had bound and engaged our ſelves to Presbyteriall government, without any cenſure paſſed upon the ſaid paper, or Teſtimony given againſt it to this day, though now it be going abroad in print.

7. Taking upon them judicially to determine a Generall Aſſembly, convened, continued,

continued, and closed, to be an evill and unlawfully constituted Assembly, and in a publick way condemn the acts thereof, which no power upon earth inferiour to another generall Assembly could do; and to assume unto themselves the authority of a publike judicature in the Kirk, as having a Commission from another prior Generall Assembly, which was indeed extinct and void, or suppose the power thereof be only in question, To assume (I say) that power before it was examined and determined by a Judge Competent, whether the intervening Assembly (whose meeting if lawful did extinguish all Commissions from a prior Assembly) was lawfully constitute or not, all the world shall not be able to clear this from usurpation. I shall adde no more instances to this purpose, though I might adde not a few. And as for these I have brought, the reader may perceive that they do not belong directly and formally to the matter of the questions in controversie between the Protesters and the late Judicatories of the Kirk, but that they are such as, suppose the judicatures had gone wrong in some of these matters in controversie, yet can never be cleared from contempt and wronging of the established government of this Kirk. Whether in their carriage or relation to the late generall Assembly they have done answerable to their profession here for the established government, I leave it to be judged by what followeth in the examination of the Reasons they alledge for what they did.

§. 6. Their next pretension or profession is, That *they look upon the present differences of the Lords servants of the Ministery, as one of the greatest tokens of the Lords indignation against this Church, and that they hold it their duty to be humbled before the Lord in the sense thereof, and by all lawfull and fair means within the compasse of their power and station to endeavour the remedy.* Verily these differences are so to be looked upon, *Because of the anger of the Lord is the Land darkned, a man spareth not his brother. Ephraim is against Manasseh, and Manasseh against Ephraim, and both against Judah.* And as all the Lords servants and people in the Land have cause to be humbled before the Lord in the sense thereof, so some of those brethren in a speciall way as being the main authours and promoters of these rents and divisions. Let impartiall men look back and consider the beginning and progresse in every step of the present divisions in the Kirk and Kingdom, since the defeat at *Dunbar*, and see who have been the prime agents therein: I shall but point at some particulars. Who were they that after *Dunbar* divided one part of the remnant of the Army from the other (which was the first appearing step of our divisions) and would never suffer them to joyn and unite again? Was not the contriving of the Western Remonstrance the next step of our divisions? and of it self a most divisive course, as containing positive determinations of matters of publike and highest concernment, and condemning of publike approved acts, not only of the State, but also of the Generall Assembly, by private men without any advice had or sought from Kirk or State; yea, containing also in the close thereof a band engaging themselves to prosecute the matters of that Remonstrance according to their power, a thing judged alwaies in this Kirk most divisive, for any private men to do by themselves. Was is not some of those brethren who when the conference was at *Perth* upon the Remonstrance, opposed by all means conjunction amongst the distracted Forces of the Kingdom? and when it was propounded in the conference that they enjoying their own judgement concerning the disowning of the Kings Interest, yet upon other grounds of the quarrell wherein they agreed with the rest of the Kingdom, would joyn with the rest of the forces for defence against the Invaders; did not some of them publikely and plainly profes-

reſſe that they could not, they would not joyn? Are not theſe brethren the men that becauſe of the ſenſe given upon the Weſtern Remonſtrance, though moſt moderate, and with much tenderneſſe and reſpect to the perſons having hand in it, withdrew themſelves in a very tumultuary and diſorderly manner, never deigning to come again to the meeting thereof, which was the next ſtep of our diviſions? Was it not a diviſive courſe when the Reſolution was given to the Parliaments Quæry concerning perſons to be employed for defence of the countrey, preſently to emit and ſpread papers through the Countrey (under pretence of writing them only as Letters to the Commiſſion expreſſing their ſcruples) condemning the ſaid reſolution as a defection from the Covenant and former principles? Suppoſe they thought in their conſciences that reſolution to be ſuch; yea, ſuppoſe that really it had contained ſome matter of that kinde, and that the Commiſſioners had erred (as *humanum eſt labi*) yet ſhall they never be able to clear themſelves before indifferent and impartiall men of diviſive walking, in diſdaining to come and propound their doubts and reaſons againſt that reſolution in an amicable and modeſt way in the Commiſſion it ſelf, and taking ſuch a way of writing and ſpreading abroad teſtimonies (as they call'd them) amongſt themſelves peremptorily condemning, traducing, and tending to the rendring odious honeſt, godly, and faithfull brethren, and agenting as diligently as they could to induce others through the Countrey to do the like. Many other inſtances of their diviſive motions might be given, but by thus much let any man judge if they have not cauſe to be deeply humbled for the diviſions in the Land amongſt the Lords ſervants. And as for their profeſſion of endeavours by all lawfull and fair means within the compaſſe of their power and ſtation, to remede theſe diviſions. It is the duty indeed of all who would prove lively Members of Chriſts Body, and lovers of the proſperity of *Zion*, And happy were the man that could be the peacemaker, and the repairer of our breaches: But if the late and preſent practiſes of theſe our brethren do well agree with this profeſſion, let God and indifferent godly men judge. I ſhall not now inſiſt upon the carriage and motions of ſome of them in the beginning of the late Aſſembly at St *Andrews* (which were by a reverend, judicious, godly and moderate man, in their own hearing ſaid juſtly to be fiery motions *& petere jugulum pacis*) nor yet upon their proteſtation againſt the Aſſembly. As to that effect of it I am now upon, I ſhall only ſay this for the preſent; Had it not been a more probable and Chriſtianlike meane for remedying the diviſions, to have dealt for a meeting of judicious and godly men of both ſides through the Kingdom (which certainly was within the compaſſe of their power and ſtation) for brotherly and amicable conference in equall termes about the differences, then that they being but the one ſide, to take upon them the authority of a publike judicatory, and by themſelves ſtreightway to condemn the other ſide as guilty of carrying on a courſe of defection, and that to be the main cauſe of Gods wrath upon the Land; and to go on and continue in that aſſumed authority, and acting by vertue thereof (as they declare peremptorily they will do, in their anſwer given to the moderate and peaceable paper ſent to them by the Synod of *Lothian* at their late meeting in *Nov.*) while as the moſt part of the Miniſtry of the Kingdom cannot in conſcience but teſtifie againſt this as uſurpation, which muſt heighten differences and render them more incurable: might not theſe things been forborn without prejudice to themſelves for peace ſake at leaſt until that other way had been eſſayed? I ſpeak not now for the lawfulneſſe of the late Aſſembly, or of the publike reſolutions, but ſuppoſing theſe mat-

ters to be *sub judice lis*, as they are at most between us and them, could there been a way more obstructive to union between the parties differing, or more effectuall to render the divisions desperate, then for the one party and that the far lesse party by more as one to ten, to condemn the other in a publike way, and represent them as the main procurers of the wrath of God upon the Land, and to take upon them at their own hand to be judges over them? Dear brethren, God will not be mocked, this is not agreeable to professions of desires and endeavours by all fair and lawfull means to endeavour to remedy differences. What these our brethren will hereafter do towards peace, I cannot nor will take upon me to predetermine any with prejudice against them; many of them I am perswaded are men fearing God, and not only loving the peace of Zion, but also are learned and understanding in these things that belong to the peace of the Kirk; yet certainly it is feared by many both godly and wise, that some amongst them, for all the businesse that is made about conferences upon the differences (which indeed are not to be rejected but followed by all means) and professions made of aimes and desires thereby to to have divisions removed, that have no other purpose but so far as they can to strengthen themselvs in their own way in every point, and to fix the division from the most part of the Kirk of *Scotland*. The good Lord avert this. But if they shall appear at last, men of understanding and soundnesse, upon that side of the differences will remember and make use of what they have learned and know and have professed concerning the Church, the constitution thereof, schisme and separation, against Independents and Separatists.

It should now follow that we should come to the examination of the Reasons alledged against the late Assembly: but that there is one passage more in the Narrative of the Protestation which cannot be passed over without some enquiry upon it, it is in these words; *But that as the faithfull servants of Jesus Christ in this Land in former times did by the good hand of God on them, bring the work of Reformation unto a great perfection and nigh conformity to the first pattern: so unfaithfull men, minding their own things more then the things of Christ, and usurping over their brethren and the Lords inheritance, did deface the beauty thereof, first by encroaching upon the liberty and freedome of Assemblies, afterwards by taking away the very Assemblies themselves; and therefore remembring*, &c. I shall not stay here to examine the grammar and Logick of this passage in relation to antecedents and consequents; wherein it seems whileas they have been too forward and earnest to let out indirectly a blow at honest men, they have somewhat overseen themselves as might be cleerly evidenced, but this is not worth the while: Nor shall I insist much to enquire what mystery may be insinuated there where they say, *that the faithfull servants of Christ in former times brought the work of Reformation in* Scotland *to a nigh conformity with the first pattern, and to a great perfection*. Since these epithets of *great* and *nigh*, cannot be looked upon in this place but as *termini diminuentes*; because perfection and conformity to a rule, are in themselves and in their own pure signification, such termes as no epithete of quantity in the meere positive degree can be added to them without diminution of the things signified by them; when you say an action is come to a great perfection and unto a nigh conformity, you say not so much as if you said simply it is come to perfection and to conformity with its rule: Now the work of Reformation here being meant of outward Ordinances, the bretheren would do well to tell, and it were wisedom for every honest professor to enquire, what they judge wanting of perfection and conformity to the pattern in the Reformation of outward Ordinances, carried on by the good hand of God upon these his servants: for mine own

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part I am not given to be jealous, yet I think it is safe now to take heed, *ne latens anguis in herba*, the rather knowing it hath been the way of some in these Lands, since the work of uniformity begun in them, to say, that the work of Reformation in *Scotland* was indeed a good way on, but that yet there are further attainments then it was brought to. And now it is begun boldly to be presented to a meeting, prerending to be the publike Commission of the Kirk, that the taking of Presbyteriall government as the greatest perfection attainable in Kirk government, and, that the maintaing lesse then positive evidences of grace, is sufficient for constituting one a member of the visible Kirk, and sundry other weighty points of the doctrine and discipline of the Kirk of *Scotland*, are chief causes that have brought on the present judgements upon the Land; which I dare say the presenter of them would never hazarded to have presented, had he not known of some good liking of them in some Ministers. Nay I will say further, though the man be understanding as to his station beyond many others, yet whoever knows him best, and will consider the stile, contrivance and conceptions in these articles now extant in print, will (I doubut not) say there hath been the hand of *Joab*, another head and pen in them then his own; This by the way. That which I would have especially observed in this passage is, to what purpose is this place are brought in these unfaithfull men (*viz.* the prelats) their minding their own things, *&c.* And all this made an antecedent, whereupon is inferred the Protestation against the Late Assembly; for immediatly it followeth, *Therefore remembring*, &c. Whereunto tendeth all this but to bear in hand all that shall happen to reade this Protestation, That the brethren that have been lately, and are opposite to them, have been, and are treading the steps of these unfaithful men the Prelats, and their mentioned practises: A shrewd suggestion (to say no worse) against their Brethren, many of whom not only such as yet they dare not but profess to esteem highly of, but even many others whom they despise, have been honoured of God to stand constant against Prelats usurpations, for the liberty of Assemblies, when few of their accusers had the honour to have their hand at the work; yea, some (it may be those from whom this suggestion issued) were taking unwarrantable orders from Prelats, and doing more too. How can honest Christian hearts endure to admit so slanderous a suggestion against so many honest men, whose faithfulnesse, integrity, and constancy in the truth have been so well known and seal'd by God? *Quis tuleras Gracchos* (I speak not of them all) *de seditione loquentes?* if need be, it will be easie to discover, or rather to name (for they are not hid in the dark) the prelaticall steps that some have trod these years by-past.

§. 14. We shall now weigh the reasons whereupon the Protestation is built, and which have been added lately as buttresses to hold it up. Surely the grounds whereupon men would venture upon such an act, or others would joyn in approving it, had need to be weighty in themselves, and relevant, and also clear to mens consciences. To protest against, or distant from some particular acts and constitutions of a general Assembly, is a thing which may be done without perill of schism, and without derogation to the authority and being of government; but when a generall Assembly it self is protested against, and declined as unlawfull and having no authority at all, who sees not how bad the consequences must be in that Kirk? hardly can it by any humane means but turn to a fixed schism, which thing how have godly orthodox Christians in all ages of the Kirk detested and abhorred: choosing rather to tolerate even great offences, which they did see, but could not mend, then to divide the Kirk of Christ: And then it would be seri-

eaſily conſidered if the reaſons and grounds of ſuch an act be not clear and relevant, how high an attempt it is againſt the Kingly office of Chriſt to trample under foot his ſupream externall court in a nationall Kirk? Come we then and ponder the reaſons alledged for this proteſtation.

Their firſt reaſon for the unfreeneſſe and unlawfulneſſe of the Aſſembly, is, *That the Election of Commiſſioners to the ſame was prelimited and prejudged in the due liberty thereof, by a letter and act of the Commiſſion of the laſt Aſſembly ſent to Preſbyteries, appointing ſuch brethren as after conference remained unſatisfied with and continued to oppoſe the publike reſolutions to be cited to the Generall Aſſembly.* In the late larger Paper emitted and ſpread abroad ſince (wherein as may be conceived are muſtered all the forces that could be gathered together againſt that Aſſembly, and more heads have been employed in it then one, every man that reads it diſcerneth whoſe pen hath given the form and frame to it. And any diſcerning man alſo may perceive in it ſomething of the ſchool, and ſomething of Law and Regiſters which the former behoved to have from other quarriers) it is put in ſyllogiſtick form thus: *That is no free generall Aſſembly the election of whoſe Commiſſioners is ſo prejudged and prelimited in the due freedom and liberty thereof, that many Miniſters of Preſbyteries in a capacity to be choſen for their ability and faithfulneſſe, are by the Preſbyteries at the order and appointment of a ſupreme judicatory paſſed by and ſet aſide in the Election, and rendred incapable to be members thereof. But the late meeting is ſuch, Therefore,* &c.

§. 16. We will not here follow out foot for foot the tract of many objections, which the contrivers of this paper either have ſome way found made by others, or have formed to themſelves at their own pleaſures againſt this and other following reaſons, and their replies thereunto, but ſhall propound ſuch anſwers as we conceive diſcover the nullity of this and the other reaſons, not omitting the conſideration of any thing contained in this paper, which may ſeem to meet with what we ſhall bring as occaſion ſhall be offered without tying our ſelves to the order of this paper: for anſwer then to the firſt ground.

§. 17. 1. As it lyeth in the Proteſtation, it could have no force to prove any illegality or nullity of the Aſſembly at the time of the Proteſtation: Suppoſe the Commiſſioners act and letter had indeed contained undue prelimitations, becauſe this fault of the Commiſſioners could not be imputed to the Aſſembly to nullifie it, while as yet it was as to the knowledge of the Aſſembly, but an alledgance not proved that ſuch undue prelimitation had been u ed in the election of Commiſſioners, and they had not as yet determined it, and approved the deed of the Commiſſion, nor any deed of Presbyteries done thereupon in elections: At the giving in of this Proteſtation the Aſſembly had not as yet conſidered the Commiſſioners proceedings, neither indeed was it in their power to cognoſce upon exceptions againſt the Commiſſion, without change of the order of proceeding that had been uſed conſtantly in all bygone time, and upon a great debate with the Parl. it ſelf in the Aſſembly, it had been eſtabliſh'd by a formal act, as the proteſtors themſe ves well underſtood and acknowledged. And therefore upon that it was that they offered to the Aſſembly before the chooſing of the Moderator, a paper preſſing the neceſſity of changing and reforming the order of the proceeding Aſſembly, which before had alwaies been in uſe, as if ſome of themſelves had not been the main maintainers and procurers of the eſtabliſhing of that order before when it made for them, and as if the Aſſembly as yet but in heap of the matter, and not conſtitute into a judicatory, could have taken into conſideration and altered the practiſe and

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constitution of former Assemb. The Assembly did offer to call in this exception, and to give unto it all due consideration as soon as possibly they could winne at it. But come we to the argument as it lieth in its full form and strength in the later Paper.

§ 17. Passing the proposition thereof, let us come to the triall of the second, or the assumption: *That the election of Commissioners to the late Assembly was prejudged and prelimited in the due freedom thereof*, &c. That this alledgance might be verified, it was necessary to have laid clearly out,

1. That the Act and Letter of the Commis. of the General Assembly did exclude and discharge many Ministers to be chosen Commissioners to the Assembly, who were in a capacity for ability and faithfulnesse to be chosen.

2. That the Presbyteries in the election were passively prelimited by the letter of the Commission, *i.e.* admitted the prelimitation of the Commission, and did not use their own freedom in electing, but meerly followed the direction of the Commission: let the Commissioners be never so guilty, and their letter never so unduly prelimiting, yet if the Presbyteries who are the only electors, used their own freedom, the election is free and valid, and nothing can be inferred against the Assembly as unfree and illegall in the constitution thereof, because of any such Act or Letter of the Commissioners; As solliciration active of judges, or members of a judicature, proves not a judicature corrupt, unlesse it can be evidenced that they have accepted and yeelded to the sollicitation: Now doth this Paper prove either of these as it undertaketh, and would bear the Reader in hand, when it saith, the second Proposition is proved good? and ingennous Reader consider if it do so.

§ 18. And first, For the latter of these two particulars, what saith it? The *second is proved by the Presbyteries proceeding according to the letter and act of the Commissioners sent unto them about the time of their choosing Commissioners, appointing that such*, &c.

Answ. Did the writer of this Paper at the emitting of it think that it should come ever under the consideration of discerning and impartiall judgements that would try ere they trust? or rather hath he purposed that it should come to none but such as were preengaged or pre-limited to take any thing off his hand for good coin, proof good enough; for here as to that of the assumption on which we are for the present, there is nothing but a *petitio principij*, a naked affirming the same, which was alledged before in the first setting down of the assumption. For what else is it that is said here, *Presbyteries proceeding according to the act and letter of* &c. but the same that was alledged there, *That Presbyteries at the order and appointment of a supream judicatory passe by*, &c. And therefore whatever the Writer saith afterward in the pretended proof of that assumption concerning the things included in the Commissioners act and letter, to shew that they intended prelimitation of the election of Commissioners, let it be never so true, it is but words which he gives his Reader in the close of that section, saying, *These things do clearly prove that there was such a prelimitation of elections as is formerly spoken of*; for let these things be never so clear as spoken of, the Commission act and letter, yet for ought that he hath said as yet, it is not clear that Presbyteries proceeded according to these, or were passively prelimited by them, that they did not use their own liberty in Election; And so the second Proposition is not yet proved.

§ 19. I affirm and make good, That Presbyteries were not passively prelimited but chosen freely.

1. A great part of the Presbyteries (I may say without over-reaching) four

parts of five, at that time, had no opposites to the publike resolutions amongst them; and so were not capable by prelimitation to exclude whom they had not.

2. Of those Presbyteries who had any opposites to the resolutions, the farre most part did choose such and no other for their Commissioners, some choosed such, and others otherwise minded indifferently (as will appear by the Rolls of the Assembly, and the consideration of the mindes of Presbyteries at that time) and these very few who did passe them by in their election, did it mearly of their own accord, following the freedom of their own minde, without all prelimitation by any thing from without; the contrary is not proved and we can instruct the affirmative of some who did passe by such ere that act or letter came to them or were made known by them.

§ 20. Against this second somewhat may seem to be said in the Writers reply to the third objection he forms against the first argument of the Assemblies nullity; There in the objection amongst other particulars alledged it is said in the third, *That the letter and act had little or no influence upon Presbyteries in the choice of Commissioners*, to which it is replied by the writer, *This is spoken against the truth*, for proofs whereof he giveth these instances.

1. *All the Ministers who oppose the publike resolutions are known to be honest and faithfull, and most of them such as had wont these years past, because of their ability and integrity, to be chosen Commissioners, but few of them were chosen this year in Presbyteries to the Assemblies, and if any such were chosen, it was where the whole Presbyteries were unanimous against the publike resolutions, or if the presbytery was divided in their judgements, then were they for the most part either free elections, or dissents or protestations against the election of such as were unsatisfied with the publike resolutions, or else both, as in the elections of* Sterlin *and* Glasgo; *of all which no reason can be given except the act and letter of the Commission.* To the matter of that instance we say these few things. 1. It is too wide a word, all the Ministers that oppose the publike resolutions are known to be, *&c.* And however many of them will not be questioned to be such, yet we must say some even of these were not so faithful as they ought to have been this last year bypast in the particular of the defence of Countrey and Covenant in all the sworn articles thereof. This the Nation feels to day, and posterity when this generation is dead and rotten, will give impartiall judgement of it. 2. Be it so that some that were wont to be chosen Commissioners, were not now chosen, yet this is for little purpose to the point, to prove that the election was carried by influence of the Commissioners Letter. That the same men have wont to be often without intermission chosen to be Commissioners, the whole Kirk was growing sensible of the danger of this thing, whereby the whole power of publike government was neerby become setled in the persons of some particular men, and these but a few, as constant Commissioners of the Kirk. If ever the Lord shall be pleased to grant again to this Kirk the liberty of a Generall Assembly, it were necessary that Presbyteries be prelimited indeed that they make not such an use and wont. 3. That few opposers were chosen it is no wonder, because they were but few in comparison of the rest of the Ministry of *Scotland*. 4. Even where neither whole Presbyteries were unanimous against the publike resolution, nor yet the plurality were opposers, yet some unsatisfied were chosen Commissioners without a contrary election, and without protestation (dissenting in the enumeration is idlely reckoned up) as is evident by the Commissioners both of the University and Presbytery of *Aberdeen*: There was a Protestation against the opposing brother, but it was taken up and passed from, and the election unanimously approving afterward

ward in the presbytery, so here is something against the truth clearly. 5. The writer makes an enumeration of Elections in Presbyteries, divided in judgement, some doubted, some dissented from or protested against, some both waies, but gives us no particular instances of all these sorts but only two, these of *Glasgo* and *Sterlin*. And I suspect he can give us no more or very few. But 6. To the main drift of this instance expressed in the last words thereof: *Of all which no reason can be given except the Letter and Act of the Commission*; We answer, This is a very poor way of proving, that the Letter and Act of the Commission had much influence upon the Election of Commissioners against a mans denying it, to say, no other reason can be given of these elected, and these not elected, and this or that done against election of some opposers of the publike resolutions, but the letter and act of the Commission, what is this but to beg the question? And when you have affirmed a thing, and take upon you to prove it, to do no more for proof of it but to say the adversary cannot prove the negative, whereas *affirmanti incumbit probatio*, and yet we say another reason may be given of these things then what the Writer alledgeth. See § 19.

As for the Elections mentioned here, a word of them, and so we passe on to the next instance: For that of *Sterlin* it is known that the first Protestation there was not against Election of opposers of the resolutions, but against not-opposers; When at the diet of the Presbytery appointed for Election of Commissioners to the Assembly, the matter was put to Vote, and Commissioners chose by plurality of voices, some of the brethren of that Presbytery, the fewer part in number, discontented at the Election, held a new meeting thereafter by themselves, without the present Moderator and Clerk of the Presbytery, choosed a Moderator and Clerk, and made a new Election of opposers of the resolutions to be Commissioners, was there not reason enough to protest against that Election (if it was protested against,) beside the act and letter of the Commission? as for that of *Glasgo*, be it so that the letter and act was a reason that moved some brethren of that Presbytery to protest against the first election, being of opposers of the resolutions, yet 'twas not the sole reason that moved them to protest, they had sundry other weighty motives besides that as is known, yea, it was evident that it had the least influence upon them in that matter of any, for in the Election that these same brethren made afterwards, they choosed one of these same opposers to be a Commissioner, notwithstanding the act and letter of the Commission: And I verily think that there was none that at that time in Elections passed by any opposers, or dissented from the Election of any of them, but they would have passed by the same, and dissented from the same, though there had not at all such an Act or Letter come from the Commission, they conceived it in it self a duty at that time, and took the Letter as a warning to be the more mindefull of their duty.

§ 21. The second instance to prove the great influence that the Letter and Act had upon Elections. *The Presbytery of* Dunkel *having chosen their Commissioners, one of their number, who was a member of the Commission, having protested against the Election, because such as were chosen were unsatisfied with the Commissioners Proceedings, the Synod of* Perth *meeting a little after, and receiving the Act and Letter of the Commission, did thereupon sustain the dissent and Protestation of that man in their number, and did appoint the Presbytery of* Dunkel *to choose their Commissioners new again.* This is the only instance alleadged, which may seem with some colour to evidence some influence of the

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Commissioners Letter and Act: but yet when it is discussed there will be little to the purpose found in it. For let it be so that the Synod sustain'd the Protestation upon that ground, and appointed a new election, yet it is known that the Presbyterie in the second election still did choose Brethren dissatisfied with the resolutions, and as I believe these same whom they had chosen before, who were admitted in the Assembly without question, and reasoned and voted therein according to their minde without any restraint or hinderance; so that if there was any fault here it might well be in the Synod's act, but not in the Presbytery in electing, which was the onely act in this businesse capable of, and chargeable with the fault of prelimitation, but this was done with freedom. This much to the one part of the Assumption. Whereby it may appear that what ever prelimitations were or might be in the Commissioners Act and Letter, yet the elections were free, because Presbyteries therein were not passively prelimited, but choosed freely according to their own minde. Were there no more to be said, this same much may make the Protesters bethink themselves better in their second thoughts of their rash adventuring upon so high an act as a Protestation and Declinatore of a Generall Assembly, as unfree and unlawfull, and may make others advise better ere they adjoyne themselves to it by approbation. It is true, that for proof of the unlawfulnesse of some of these pretended Assemblies condemned in the Assembly at *Glasgo* 1638. among other Reasons, the want of freedome in the matter of elections of Commissioners is alledged as a main and principall one; But there the matter was not meerly alledged, but clearly and undeniably evidenced, that the Commissioners sent to these meetings were not indeed elected by Presbyteries, but nominate by the Kings Letters. See *Sess.* 12. Reasons against the pretended Assembly of *Lunlotegow* 1606. and at *Glasgo* 1610. But let us proceed further in the Discovery of the nullity of this first Reason, and for that purpose consider the other particular of the Assumption thereof, which concerneth the Commissioners Act and Letter.

§ 22. As to this matter in the general, The Protesters themselves, nor any other judicious or sound Christian will not say or think that the election of Commissioners in Presbyteries ought to be of such a Lax liberty as is bounded with no limitation at all: This was the loose way pleaded for by *Arminians* at the Synod of *Dort*, and which would tend to the subversion of true Religion. Certain it is the Presbyteries are so farre limited in this, that they must not choose any to be Commissioners to a generall Assembly that teacheth Doctrine contrary to the Word of God, and constitutions of the Kirk agreeable thereunto. And therefore if a Commissioner of a Generall Assembly in the Interval of Generall Assemblies, or any other Kirk-judicature according to their interest perceiving Ministers throughout the Church teaching contrary to truth, or preaching to the prejudice of true Religion, should write to Presbyteries desiring them not to choose any such Commissioners to an ensuing General Assembly, this were no undue prelimitation or prejudging their liberty in election, but a necessary and lawfull warning putting them in minde of, and stirring them to a duty whereunto they are bound, though no such direction were sent to them; This laid down in the General as to that Act and Letter of the late Commissioners sent to Presbyteries, we say

§ 23. First, That the Commissioners did nothing therein but what other

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Kirk meetings, and Commission had done before them in the same matter in relation to the election of Commissioners to other gen. Assemb. All which must fall to the ground as null, unfree and unlawfull, if the late Assembly be unfree and unlawfull in its constitution upon this account. We might look back to the Generall Assembly at *Glasgo* 38. it self, what Directions were sent to the Tables then at *Edinburgh* in relation to electing Commissioners thereunto. Next we might referre also to the Letters sent to Presbyteries by the Kirk Commission, *anno* 1639, 40, 41 concerning Commissioners to be chosen to those Generall Assemblies, all which are yet extant in Presbytery Books, but we shall content our selves to hold neerer hand. The late Commission did nothing but what the Commission did in the year 48, wherein the chief protesters had a chief hand, and yet maintain the lawfulnesse of that deed, and the freedom and lawfulnesse of the constitution of the Assemblies that followed thereupon.

To this the Writer of the larger Paper replieth sundry things in answer to *Object.* 1. but nothing to take away the force thereof:

First, He hints at two differences betwixt the one and the other which he would have the Reader think he might make use of, but passes by as having enough to say beside. *To say nothing* (saith he) *of the difference of a reference and citation, neither yet of the difference of a Letter and Act*; importing that there is considerable difference between these things; and that the Commission 48 appointed persons dissentient from them only to be referred, and did send a Letter only, whereas the Commissioners 51. made an Act also and appointed persons to be cited to the Generall Assembly. To which we repone, 1. The difference between a citation and a reference, when the reference is of a person to be tried and judged upon a faule, and the person is present at the reference, is just nothing; See *Ap.* 1643. *Sess.* 2. *Aug.* 3. overtures anent Bills, &c. overture 4. And I desire the Writer to say, if it was not the purpose of the Commissioners 48. when they did require Presbyteries to referre such to the Generall Assemblie, that there should be laid upon them an obligation legal to compeer personally before the Generall Assembly for Triall and Sentence upon them; and what else is the intention of a citation or Summons.

Secondly, Nor yet is there more difference betwixt an Act of the Commission ordaining Persons to be referred or cited by Presbyteries, and a Letter requiring it to be done: for is there not an Act for such a Letter and the matter of it? and has not the Letter it self the force of an Act? Would not the refusing of what is desired be accounted disobedience to the Commissioners? But it seems the Writers memory hath fail'd here. Behold an Act *in terminis*, as it stands registrate in the Commissioners Books, *Jun.* 5. 1648. *The Commissioners of the Generall Assembly recommend earnestly to Presbyteries to take speciall notice and tryall of every brothers carriage in the publick businesse, that if any be found that doe not declare themselves against the present malignant course, nor joyn with their brethren in the common resolutions against it, nor give publick information to the people of the unlawfulnesse thereof, they may be referred to the next Generall Assembly, and if any of them have already declared for it, that they be presently censured*, Sic subscribitur *ANDREW KER.*

This may make us doubt the more of allegeances of this kinde afterwards in matters of fact, when we see not cleer and circumstanciate testimonies of Re-

gifters brought forth. Now to our prefent purpofe if you will compare this Act of the Commiffion 48. with the Act and Letter of the Commiffion 51. now in Queftion, the latter will be found much more moderate and ſparing. For

1. The Act and Letter of the Commiffion 51. doth not require the Preſbyteries to cenſure any at all for oppoſing publick reſolutions, but onely requires them to be referred and cited to the Generall Aſſembly, whereas the other 48. requires that all who did declare in the leaſt againſt their reſolutions be cenſured preſently, and accordingly gave obedience, ſundry being depoſed mainly for ſpeaking ſome few words againſt the Commiſſioners Declaration againſt the Engagement.

Secondly, The act and letter of the Commiſſion 51. requires not (as the other doth) any to be referred for meer ſilence, nor all that profeſſed themſelves unſatisfied with the publick reſolutions, though after conference they remained unſatisfied; but onely ſuch as made oppoſition to the publick reſolutions, yea onely ſuch as continued obſtinate in their oppoſition (all due means of ſatisfaction being offered and refuſed) to the hindering people from going forth for the preſent, juſt and neceſſary defence of the Land, and withdrawing others from it, which at that time was a moſt evident expoſing of the Land without any reſiſtance to the power of the enemy. This much to the two differences hinted at, and profeſſed to be paſſed by. Now to the reſt inſiſted on.

2. Saith the Paper, *In the year 48. when a little before the election of Commiſſioners to the Generall Aſſembly, it was moved by ſome of the Commiſſioners, that ſomething might be written to Preſbyteries requiring them to chooſe none but ſuch as were againſt the engagement, it was oppoſ'd and refus'd by the Commiſſion as favouring of a way of prelimitation of the Aſſembly, and all that was then done was a Letter written to Preſbyteries, giving them account of their proceedings, and exhorting them to their duty to chooſe able and faithfull men.*

Anſw. That more was done we have made evident in the preceding Section, but what is all this ſaid here to what was alledged, that the late Commiſſioners did nothing but what the Commiſſioners 48. had done before them? Did the Commiſſioners 51. write to Preſbyteries requiring them not to chooſe any that were againſt or oppoſed their reſolutions, to be Commiſſioners? not one word more or leſſe of this: Or did not the Commiſſion act 48. bear and import as much as the act and letter of the Commiſſioners 51? Yea as much and much more both *intenſivè* and *extenſivè*, as was clear'd in the preceding Section.

But you will ſay (as it is in the Paper) in the 48. about the time, *&c.* that a motion was made that ſomething ſhould be written to require Preſbyteries not to chooſe any but ſuch as *&c.* and was oppoſed and refuſed, as favouring of prelimitation.

Anſw. I will not ſay who made the motion, but I ſay this is to little purpoſe, for what if I ſhall ſay, that the like motion was made in the Commiſſion 51. and oppoſed and refuſed too? But further, I prove by the Writer of this Paper his grounds, that the Commiſſion 48. did upon the matter that which did as really prelimit the Preſbyteries, that they ſhould chooſe none but ſuch, as if they had written ſo much to them in formal expreſſe terms: for that Commiſſion required Preſbyteries either to referre (*i.e.* upon the matter cite) to the Ge-

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neral Assembly, or to censure presently such as were otherwise disposed without leaving out any of them. Now such as were under censure, clear they could not be chosen Commissioners; and the Writer himself saith to *Object.* 5. *Branch* 2. That it cannot be denied that a cessation in matter of scandal in Doctrine or Manners, will or ought to exclude a man from being a Commissioner, therefore upon the matter that Commission did require that Presbyteries should choose none but such as were against the Engagement. The act and letter of the Commission 51. if it did impore exclusion of any from being chosen Commissioners, was not so wide by farre: It required not all unsatisfied, but such as continued to oppose, to be cited; and there were many unsatisfied at that time who made no opposition, and therefore might have been for ought that can be any wayes drawn from the act and letter chosen to be Commissioners, as sundrie were *de facto*.

The second consideration presented in answer to the former alledgance, is, *That that letter of the Commission 48. was not written by the Commission as we remember, untill most part, if not all elections in Presbyteries, were past, as will be clear'd by the date thereof.*

Answ. So were many of the elections in Presbyteries past before the letter of the late Commission came to them; but that all or most part of the elections in Presbyteries were past before that letter was written in 48. to Presbyteries, we cannot believe upon a naked assertion. The Writer would have done well here to have expressed the date of the letter, for I doubt not but he might have had it out of some meer Presbytery book; I cannot have a double of it for the present, but I shall give an evident presumption that it is otherwise then is said here. 1. In some Presbyteries I will take upon me to prove, that some Presbyterys dayes ere they began to think of the election of their Commissioners, some of their members were upon that letter, for silence in the publick businesse referred and cited to the General Assembly. Next, look to the date of that act of the Commission formerly set down here, it was upon Jan. 5. (now it is evident that this act hath been made in order to that letter, if it self was not also sent with it) and the Assembly that year did sit upon *July* 12. so that betwixt the appointment of the letter (and the date of it could not be much after that) and the down-sitting of the Assembly, there intervened full five weeks. Now allowing eight dayes for the dispatch thereof to Presbyteries (to the most part of Presbyteries it might come sooner) it might have been at Presbyteries 14. or 15 dayes before the Assembly. Now it is well known that few Presbyteries except it be such as are farrest distant, chuse their Commissioners so long before the Assembly.

The third consideration presented by the Writer of this Paper is, *That before the writing of that Letter by the Commissioners 48. the whole Kirk of Scotland almost in all the Presbyteries and Synods thereof had declared themselves in conscience unsatisfied with the Engagement, excepting a very few Ministers scattered here and there in Presbyteries, which few were also known either to be opposers of the work of God, or neutrals and indifferent therein from the beginning.*

Answ. 1. If by the Kirk of *Scotland* here be understood the collective Kirk, I cannot see how it is true that is said here, that the whole Kirk of *Scotland* for the most part except a few Ministers had declar'd themselves unsatisfied with that Engagement. Certain it is, and too certain that very many of the Kirk of *Scot-*

land in this sense of all ranks. In all quarters almost were too evidently and too active for it, as the censures civil and ecclesiastical which thereupon followed did witnesse. If the Ministerial Kirk be understood, it is true that the farre greater part were dissatisfied, but yet they were not so very few Ministers that were of a contrary minde; they were too many, and in some places the greatest part of whole Presbyteries. It may be well remembred what a summe they were like to have amounted to, at the time of the General Assembly: and it seems to me too much to say that all of them were either opposers of the work (whether hereby be understood the work of outward Reformation, or the power of Religion) or neutrals and indifferent from the beginning, the contrary is known of some of them, and I would not say so much neither of all of them who were censured, though I acknowledge their censure was just.

2. A great part of the Kirk of *Scotland* before the writing of the late Commission letter, had declar'd themselves satisfied with the Commission resolutions, and dissatisfied with the course of the opposers thereof: and count when the Writer will, he shall finde that the Dissenters from the Commission 48, were not fewer, yea not so few as the Dissenters from the Commissioners 51. We know what number these amounted to at their greatest meeting in *Edinburgh* of late. And howsoever moe of these then of the first be godly men, and had been more faithfull in the cause formerly, yet their present course at that time being (not faithfulnesse to the cause) but most prejudicial to it and the whole Kirk and Country both, they might justly have been referred and called before the Generall Assembly, to give account of their way as well as the former were, though to be more tenderly dealt with, as was evidently seen in the whole progresse with them, and was also really apparent in the very act and letter of the Commission themselves.

The fourth consideration presented by the Writer is, *The resolutions then (viz. 48.) were agreeable to the Covenant, Acts and Constitutions of former Generall Assemblies. Whereas the resolutions of the late Commissioners were point blank contrary to the Covenant, and the former Acts and Constitutions of this Kirk.*

Answ. This is the only material difference between the two acts taken to wit, from the matter, that the Commissioners resolutions 48, were right, but the other 51. wrong. And upon this alledgance that the resolutions of the late Commissioners were contrary to the Covenant and the constitutions of the Kirk, hangeth the strength of most part of the rest of the arguments brought to prove the unlawfulnesse of the late Assembly. I will not challenge the Writer that alledging the errour of these resolutions, he so often mentions only the Covenant and acts and constitutions of Assemblies, and seldom the Word of God in Scripture. For my part in speaking of the truth or errour of an opinion in matters of conscience, or of the sinfulnesse or lawfulnesse of a course, I would not mention *Regulas regulatas sine regula regulante*, the subordinate rules without the supream and soveraign rule. But to the point

1. That the resolutions of the late Commissioners were such as the Writer saith is as easily denied, as he affirmeth it. The greatest part of the Land, Ministers and others, as sound and as intelligent in Religion as he, did and do to this day judge otherwise of them then he, he shall never be able to prove what he affirmeth. And the late Commission were, and yet are content their late resolution be examined, tried and judged by the Kirk of *Scotland*, or all the

Orthodox Christian Kirks in the world by the Word of God, the Covenans and constitutions of this Kirk. But

2. What ever be said of the nature of these late resolutions, yet the matter was at least alike to the General Assembly at the time of the constitution thereof, and the Protestation against the same: For the resolutions and proceedings of the Commissioners 48. were no lesse quarrelled by an opposite party, then were the resolutions of the Commissioners 51, yea the quarrel 48. was more considerable then this was 51, the party quarrelling the 48. being no lesse then the Parliament, and in this only few Ministers, and the Reasons of the former were a great deal stronger and harder to be looted. The General Assembly was here Judge to both; As in the first quarrel the Commissioners could not be absolved from the accusations charged upon them, untill all was heard and tried: So the Commissioners 51, could not be condemned for the exceptions and alledgances of a few Brethren, before that any of them were or could be cognosced upon. By all this which hath been spoken to their four considerations, it may appear that what the Writer saith shutting up the same, *That those things being put together make a wider difference between that which was done 48. and what was done 51.* is but a groundless assertion. We have evidently shewen that there was no difference at all between the one deed and the other (so that if the one was guilty of prelimitation of elections of Commissioners, so was the other no lesse) excepting that the deed of the Commissioners 51. was a great deal more sparing and moderate. So we have vindicated that particular in answering the first reason against the freedom and lawfulnesse of the late Assembly alledging prelimitation of the election of Commissioners by the act and letter of the late Commission, *viz.* that the Commission did nothing therein, but what was done by the Commission 48. which deed the Protesters maintain with us.

We shall adde some further considerations in answer to the same first Reason: but ere we proceed, a word upon what the Writer of that second paper hath upon the second Objection, which either he has formed to himself, or found I know not where, *viz. That it was in the Commission power not only to appoint those who opposed the publick resolutions to be cited to the Generall Assembly, but also to have censured them by vertue of a clause contain'd in their commission, and that therefore having kept themselves far within the bounds of their Commission*, &c. The Writer of this paper for clearing this businesse runs out in a discourse concerning the nature of delegated Judicatories, that they are and must be from the light of nature and reason limited to a certain rule in all their administrations, *viz.* to standing Laws of the incorporations to which they do belong: and to a certain end, *viz.* the good and preservation of the whole body: and then in application unto or accusation against the late Commissioners of the Assembly their resolutions, he affirms that they were not only without the warrant of any act of the Assembly (which should have been their rule) and not only not contributive for the preserving and advancing the work of Reformation, but expressly contrary to the clear letter of the Covenant, & multitudes of acts, and destructive to the work. And that therefore by assuming to themselves a power to censure and cite such as did oppose them, they did not only go beyond the bounds of their commission, but destroy'd the very end of it, *viz.* the preservation of the liberties of the Kirk, in bringing the gen. Assem. into servitude and bondage, by excluding all such as would not consent to their course of defection; a dangerous and damnable preparative, laying a foundation for the total overthrow of discipline, yea of doctrine and worship, yea (the

Commission once being corrupted) of the introducing of Prelacy, Service-book, Popes Supremacy, the whole body of Popery. Here certainly the Writer hath filled his pen *nigræ succo taliginis*, to render the Commissioners odious and detestable to all; But to these things briefly.

1. If it was another man that propounded the objection then the Writer himself, I verily think he did not mean that the Commissioners had power to cite or censure opposers of any resolutions made by themselves right or wrong (neither doth the objection as it is set down by the Writer himself impart any such thing) but opposers only of their just and right resolutions, which, as I doubt not, he took the late resolutions to be, And therefore all the Writers running out upon the nature of a delegate judicatory. *&c.* as to that objection, is but a fighting against his own shadow.

2. We know and acknowlege that delegate judicatories are limited to a certain end and certain rules; yea, we think further that judicatories not delegate, but having power originally in themselves humane, are so limited too. But that the late Commissioners did in their resolutions carry on a course of defection, contrary to the expresse letter of the Covenant, and multitudes of acts of this Kirk, and destructive to the work of Reformation, and that they destroyed the liberties of the Kirk, brought the Generall Assembly into bondage and servitude, is said, but never will be proved, and so but a foul calumny and a false accusation of the Brethren; For which and that unchristian expression calling what the Commissioners did *damnable* (which being [illegible] aggravation here cannot simply mean only that the thing done was worthy to be condemned, for so is every errour even the least, but also damnable to the doers) I pray the Lord give the Writer repentance and forgiveneſse.

Now further in answer to the first reason against the late Assembly, as not free and unlawfull, grounded upon the Commissioners act and letter sent to Presbyteries: Consider in the next place,

1. That which we touched at before, that the act and letter did not require Presbyteries to cite all that were unsatisfied with the publike resolutions, nor yet who after conference remained unsatisfied, but only such as remained unsatisfied and continued to oppose, *viz.* in their publike doctrine and active practising, to the hindring of the people from going forth unto, or withdrawing them from the present just and necessary defence of the Land: So that for any thing that could be imported in that act and letter, whosoever were unsatisfied in their judgement with the publike resolutions, but did abstain from opposition and acting against the execution of them, might been chosen to be Commissioners to the Assembly. And many such were in the Land who wisely and Christianly considering the integrity of the Commission in the end they had before them, conceived the difference about the means resolved upon not to be such for which they should any waies hinder the present necessary defence of the Land; And sundry such Ministers were chosen Commissioners *de facto*, and did sit and vote in the Assembly freely according to their judgement.

2. That the main end of the Commissioners act and letter sent to Presbyteries, was meer tenderneſse toward some men, who have given an evil requitall for it. The Commissioners upon some prior papers finding some Presbyteries ready enough to have put sharp censures upon some who had been too busie ſticklers against both Church and State, to stop them and take them off from hear, sent that act and letter for referring all these Questions to the Generall Assembly: but

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as for pre-limiting the Elections not a word more or lesse.

3. As not only sundry unsatisfied with the publike resolutions, who were not within the compasse of that order for citation contained in the letter, but also some who were constant continuing opposers were chosen Commissioners to the Assembly, so there was not one mans Commission so much as excepted against, let be rejected in that Assembly, for being unsatisfied with the resolutions: yea, on the contrary sundry most eminent opposers, were not only admitted to be members without any quarrell, but sate Moderators and Clerks of Committees so long as they were pleased to stay.

§. To the two latter particulars something may seem to be said in the late Paper. To the former, that which is upon the second branch of Object. 3 *Though every citation do not exclude a man from being chosen a Commissioner or sitting as a member in a Generall Assembly, yet we think it will not be denied, that a citation in matter of scandall in doctrine or manners, will or ought to exclude him from being a Commissioner, or sitting as a member in a Generall Assembly, and such was the citation appointed by the late Commission, viz. in a matter of scandall, more then ordinary (in the judgement of the Commission) both in doctrine and manners. Besides it is unquestionable that all citations do exclude men from being Judges in the matter for which they are cited, therefore though they might have sitten in the Assembly as Judges in other matters, yet not in this; Therefore it still follows, that as to this particular which was the main, if not all to be handled, the Assembly was prelimited.*

Answ. 1. To the latter part of this Reply, I professe not much skill in the matter of legall exceptions about the constitution of judicatories; but so far as common sense and reason can lead me, it seems to me a strange assertion, that some few persons having opposed themselves to a course taken by a judicatory intrusted with the publike affairs of the Kirk, consisting of men to that time judged faithfull, and still professing faithfulnes therein as in the sight of God, and accusing this judicatory for that course they have taken as guilty of desection, and destroyers of the cause of Religion: If, I say, these few men being cited to be tried by a Generall Assembly, and consequently excluded from judging in that particular matter which is in controversie, the Assembly for this to be judged, prelimited in that matter, although there be besides these excluded a competent number of members lawfully authorized (for such we may suppose all the rest to be, for any thing that is said in this particular that we are upon the answer of) to make up a competent judicatory, and to cognosce and judge upon the matter in controversie, according to the rule of the Word of God, and the constitutions of the Kirk which they are bound by their Commission and Oath to judge by. I desire a proof of this, for it is not a principle clear and evident *ex terminis*; And the writers assertion is no warrant to receive it for an unquestionable truth: I doubt not but if the Reader shall assay to prove this, that he shall fall upon that same exception which the Remonstrants made against the Synod of *Dort*, that the most part of the Synod were their adverse party, having before declared their judgement contrary to their doctrine, which was rejected as a null exception by all Orthodox Divines in that Synod.

2. To the former part of this Reply, I confesse, that it is probable that a man being cited to the Generall Assembly upon a scandal in doctrine or manners, where the scandall is uncontroverted, and already particularly determined *quoad jus* or in point of Law, and the question is only about the fact, ought not to be chosen a Commissioner to the Assembly, at least not to sit and vote in the Assembly,

till

till he be tried and judged, for I doubt if he may not be choſen a Commiſſioner, if there be not ſome probable preſumptions of the fact: but if the ſcandall be yet *controverſi & indeterminati juris*, be controverted, and not yet a determined caſe in point of Law, by the doctrine of the Kirk, I ſee not but a man cited upon ſuch a ground may be choſen to be a Commiſſioner to the Aſſembly, and ſit and vote therein as a member in other matters, except that whereupon he is cited: And I do remember well, that upon this very ground when *Anno* 48. upon the putting of ſome upon a liſt to be Commiſſioners to the Aſſembly, who had been referred and cited to the Aſſembly for ſilence at that time, according to the direction of the then Commiſſioners, exception was made by ſome that ſuch perſons could not be choſen Commiſſioners; and conſequently could not be upon a liſt: this motion was rejected by ſome judicious and pious, affirming, that ſuch perſons indeed could not well vote in the Aſſembly, until their matter were tried, but that that reference could not hinder them to be upon a liſt for Election, and conſequenrly not from being elected to be Commiſſioners. Now ſuch was the caſe of the citation in hand, it was upon an Alledgance of ſcandall, yet *controverſi juris*, as to any particular determination thereanent by the publike judgement of the Kirk; and therefore both the perſons cited, and theſe who ordained them to be cited were to be tried and judged by the Aſſembly, and for that removed in that particular, not only about the fact, but alſo about the matter *juris* of Law. However, if this pleaſe not the Writer, let him anſwer what he will for clearing the order of the Commiſſion 1648. and it will ſerve as well to clear the order of the Commiſſion 1651. as to any illegality relating to the conſtitution of the Aſſembly; for upon the form clearly both were alike, except in what will make for advantage of the latter: And as for the matter in both it was alike, as to the Generall Aſſemblies judgement at the time of the Proteſtation, and alſo in *re ipſa* which we take upon us to make good.

That which may ſeem to ſay ſomewhat againſt the other particular (*viz.* that no mans Commiſſion was rejected, nor any man choſen to be a Commiſſioner was refuſed to have vote in the Aſſembly upon that account that he was unſatisfied with the reſolutions) is in the Anſwer to Objection 3. Branch 4.

Firſt, He ſaies, beſides, ſomething that hath been anſwered already; Policy taught the Aſſembly ſo to do, the votes of ſo few a number not being very likely to prove ſo great a diſadvantage to the buſineſſe as the profeſſed denying to them a vote would have been.

Anſw. If the Writer had uſed ſo much modeſty and reſpect to the Aſſembly, as to have ſaid that poſſibly Policy might have brought them to do this, or it may be probably thought it was thus it had been ſomewhat tolerable; but I muſt ſay, it is too much boldneſſe thus to have ſaid poſitively that Policy did teach them it: Good Sir, Did you ſee into the hearts of men in the Aſſembly to ſee this politicall deſigne moving them to doe thus? Or can you bring a demonſtration from any evidence without that their doing of it did ariſe from no other principle and motive but this? But be it ſo that they did it upon a politicall motive and end, yet if it was ſo really that none was rejected or refuſed to have Vote upon the account of their diſſatisfaction; That exception is to no purpoſe in the point we are upon, the freedom of the Aſſembly which is to be meaſured by the

acts

acts done about the constitution and managing of it considered accordiog to the matter of them, and not according to the intention and motives morallwhereupon men doth them. But the Writer doth offer further two things for answer.

1. *That the discussing and judging of the Commission of these in* Glasgo, *and* Sterlin, *who were unsatisfied with the publike resolutions, was laid aside, because in* M. Robert Ramsays *Protestation against the Election taken from their dissatisfaction, could not be discussed until these resolutions were either condemned or approved, which was in effect to exclude them from voting because of their not approving the publike resolutions, and this is so much the stronger, considering that it was refused to lay aside the Commissions of those that carried on the resolutions until their proceedings should be tried and approved.*

Answ. 1. Besides that M. *Robert Ramsays* Protestation was not against these of *Sterlin* at all, so that it is impertinent to say, their Commissioners was laid aside, because of that Protestation, and besides that the Commissions of others controverting with them, and pretending by as probable Reasons to their Commission as these, was laid aside also, it follows not hence that they were simply excluded from Voting, but suspended from Voting for a time, and had not Vote in that particular, which might well have been without imputation of prelimitation on the Assembly, as hath been shewed before.

2. The consideration added for confirmation is very inconsiderable, because the Commissions of these of *Glasgo* and *Sterlin* were controverted in the very Election; and therefore their Commissions could not but be laid aside until the grounds of the controversie should be discussed, that it might be seen whether they were orderly elected or not, but those others had their Commissions by Election orderly and uncontroverted in the Presbyteries that sent them, yet neither were they to have Vote in the matter of the resolutions; what is said from the exception made against their admission to vote at all given in to the Assembly, shall be answered afterward.

Secondly, saith he, *It is to be considered the Assembly did sustain and approve the Letter and Act of the Commission, for citing such as were unsatisfied, which was a reall excluding of all these upon their dissatisfaction at least from being Judges in that particular,*

Answ. 1. The Writer would here as all along this Paper bear his Reader in hand, that the Commission had given order for citing such as were unsatisfied indefinitely, which is contrary to the truth, for only such as (all means used) continued in opposing were to be cited, as is evident by their Act and Letter. It is true after tryall and examination of the Commissioners proceedings, the Assembly did with other things in these proceedings approve of that Act and Letter: But did not the Assembly 1648. do the same in relation to the Act and Letter of the then Commissioners of the like nature. But yet further did not all Commissioners from Presbyteries who were unsatisfied (excepting such only whose Commissions were controverted in the very Election, and were yet undiscussed) and were pleased to stay in the Assembly, sit and vote in that same very particular, I mean, the resolutions of the Commission, how then could they be really excluded from being Judges in that particular wherin really they did sit Judges? or were any of them excluded after the Act and Letter was approved? if it be said that the approving of that Act and Letter did import, that

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they ought in the judgement of the Assembly to have been excluded. I answer.

Be it so, yet though this might say somewhat, that the Assemblies determination in this Point *de jure* did not agree well with their preceeding fact, in admitting such members to judge in that particular, yet it saith nothing to the point in hand, seeing these members of whom we speak did really and actually without any lett or exception made against them, judge not only in other matters, but also in that very particular. Thus much in answer to the first reason against the Late Assembly, and what is brought in that Paper for confirming and upholding it. If it have any force, the Malignants may think themselves obliged to the Protesters for teaching them, if ever they shall have power again how to call in question, and condemn the Assembly 1648. yea, and if they finde it make for their purpose, other Assemblies too, even that solemn Assembly 1638. adventure and unlawfull, because of preliimitation in the Election of Commissioners. We go on now to the second.

In the order of the Protestation it is this; *Because of the absence of the Commissioners of many Burroughs as wanting free accesse, because of the motions of the Enemy.* In the order of the late Paper wherein other Reasons are added to these in the Protestation, this is set down in the fifth place, and is cast in a new mould, with some addition to the matter (because as first propounded it hath not seemed fast enough) that is, *That cannot be a free Assembly to which there is no free accesse and recesse, but there was no free accesse to this Assembly by reason of two Armies interjacent, between the place of the meeting, and the dwellings of many of the Commissioners pursuing one another very hotly, and having their parties coming abroad every where at the time they should have come to the Assembly, and therefore many were absent, about the one half of the Barrons and many Presbyteries, to the number of nine or ten, neither was their free recesse from it, not only because of the former reason, but because the King and Committe of estates did detain and keep under a kinde of confinement several members thereof at their returning to their own home, having nothing nor alledging any thing to challenge them for but their Carriage at the Assembly.*

Answ. I must professe ingenuously when at first I did reade the Protestation, I wondred much how men, especially Ministers of the Gospel, making so solemn and high a profession and attestation as they do in this Protestation, *viz.* that they make it upon the grounds contained therein, as being desirous to be found faithfull in the day of tentation, and to exoner their consciences as in the sight of the Lord, could alledge this as a ground to disclaim the late Assembly, as no free and lawfull Assembly of this Kirk; and I confesse my wondering is not a white abated but encreased by this second propounding and augmentation thereof. For

1. As to the propofall of it in the Protestation, suppose that a good many Commissioners of Burghs and Presbyteries had been absent for fear of the enemies motions, though this might be alledged with some appearance of reason to shew that the Assembly was not so full and numerous *in partibus integralibus*, as could have been wished, yet with no colour could it be alledged that it was not free and legall, or was wrong in any essentiall requisite for the constitution of it, unlesse it could be demonstrate either that their absence was for want of tymous advertisement concerning the time and place of it, which cannot be alledged here (the time being known by the appointment of the preceeding Assembly, and advertisement concerning the place being tymously given by the Commission) or that there

there was some appearance that some in the Assembly might be inclined to act favourably for the enemy, or that the enemy might have some influence upon the Assembly to corrupt and pervert it, which I conceive the Protesters will not say. I know that the absence of many Commissioners is alledged as one ground of annulling the pretended Assemblies condemned at *Glasgo*, 38. but it is as well known that the absence of these Commissioners was caused by untymous indiction and advertisemrnt, or some other internall cause in the Land, having influence upon the corrupting of the Assembly.

1. It had been requisite the Writer of the last Paper had condescended, namely upon the 9. or 10. Presbyteries absent, which had he done,

1. I doubt not it should have been found that some of them were absent, because they had none to send, or were not presbyteries existing at all.

2. It should be found that some of these Commissioners of presbyteries absent, came within short space to the place where the Assembly was sitting, and would not come forward to it, as for instance these of *Hamilton*.

3. That Commissioners came from Presbyteries before whom and the place of the Assembly, the Armies were as interjacent as to these that came not: for did not Commissioners of Presbyteries come from *Mers*, *Teviotdale*, *Galloway*, *Glasgo*, West countrey, yea, the Commissioners of the farmost part of Presbyteries lying that way were present; And that others came not it may seem to have proceeded from negligence rather then from any necessity, why then should the Assembly be counted null for the absence of such.

4, It is known, That some Commissioners came not from Burghs, and yet Ministers came out of the same Burghs.

5. If because of the absence of some Commissioners for fear of the motions of the Enemy, or because of the ranging of Armies through the countrey, the late Assembly be judged unfree and unlawfull, then by as good reason must the Assemblies in the time of *James Graham's* raging and ranging through the countrey, be holden unfree and unlawfull; for as many if not more Commissioners were upon that occasion absent from some Assemblies then, See here again how good friends our brethren proves to former Assemblies, by devising arguments against the late Assembly, whereby they plainly teach Malignants who were censured by these Assemblies how to cast them as nul upon grounds of conscience.

6. Let the rolls of this Assembly be compared with the rolls of former unquestioned Assemblies, and it shall be found to have been more numerous and full then sundry of them, yea, we know that at the Assembly at *Aberdeen* 1605. there were but about 20 persons present, which notwithstanding is owned by the Kirk of *Scotland* as a free lawfull General Assembly.

7. It cannot be said that any such excuse as this was made in the Assembly for the absence of any; And granting that the motions of the enemy had hindred some, yet they being so inconsiderable a number in comparison of those who were conveened, should or could not these who were conveened lawfully holden an Assembly and gone about their duty?

8. As for that which is said about the want of the freedom of recesse; To the first part it is certain and clear in common sense, that if an Assembly may sit and does sit out its time, conclude freely, though there be danger to the members in their recess, this cannot in any waies reflect upon the constitution of the Assembly, how many members of the Assembly in *James Grahams* time were there that had unsafe recesse to their own homes? For the other part.

1. These members spoken of here had protested against, and declin'd the Assembly, and deserted it (which the Writer wisely passeth in silence, and saies only they were returning to their own homes, as if forsooth the Assembly had been closed, or they had taken fair leave to go before the close:) And might not the King and Committee do all this they say unto them, until they had been informed upon what ground they had come away so untymosly, without any imputation to the freedom and lawfullnesse of the Assembly? Did not the Commissioners of the States Generall at the Assembly of *Dort*, when the Remonstrants protested against and declined that Synod, peesently confine them and charge them to abide within that City, until they should answer to the Assembly without any imputation to the freedom of that Assembly? But again, the truth is this. The protesters deserting the Assembly, and going through the Army toward the West; The report was, that they had made a broyl in the Assembly, and were come to trouble the Army, and to hinder the Levies appointed in these parts whither they were going. Hereupon the King and Committee required some of them to keep their chambers till their carriage in the Assembly might be known. But so soon as the Assembly heard of this, they dispatched unto the King, who presently sent them all to their homes, excepting that he did require such of them as were cited to the Assembly to return to it, and answer for themselves (which yet I cannot certainly say was done) without one crosse word given to them: These things being considered I am confident that unpartiall judicious Readers will acknowledge, that there hath not been much ingenuity nor conscience either in alledging this reason for nullifying the late Assembly; and cannot but think that the alledgers themselves will blush that they have propounded it for justifying their own protesting, and held it forth to others to induce them to joyn with them as a ground of conscience whereof they could not but exoner their consciences.

§. Their third reason according to the order of the Protestation, and second in the order of the late Paper is this in sum, *That the late Assembly cannot be accounted a lawfull, free, Generall Assembly, because relevant exceptions being tymously propounded and offered to be instructed and verified against many of the members thereof*, viz. *such of the late Commission as had hand in the publike resolutions that they should not be permitted to sit and vote in the Assembly as being under a scandall and guilty of promoting a course of defection until such time as they should be tried, yet it was refused to take any such exceptions into consideration, or to remove the persons until they should be tried and discussed.* For clearing and confirming this Argument the Writer undertakes to shew two things.

1. *That it was incumbent in duty to the Assembly to have removed from their meeting all persons under scandall (the same being made known to them) until they were purged thereof.* 2. *That the persons objected against were under such scandall as is alledged.*. For the former he alledges, first that it is without controversie, next brings four things for proof of it. 1. The light of nature and the word of God, but instances not one word of it. 2. Some clauses of both Covenants, the desires of the Commission 48. and of the solemn Engagement the same year, and all the Remonstrances for purging the Armies and Judicatories, even the late Papers given by this same Commission to the Parliament at *Sterlin*, about the act of Classes for removing scandalous persons from being members of judicatories (it is good that the Writer yet even in his heat against the Commission findes something right in their Papers, but he tells not all the truth that he might have done here.) In these Papers they held forth not only scandalous persons, but also all

such

such as were not positively qualified should be debarred from being members of Judicatories.

3. A rule and order set down in Assem. 1562. to be found also in Assem. 1575, 1580, 1581. and exactly keeped for above twenty Assemblies and twenty years togidder, viz. that at the entry of every Assembly, the first work is to be about trying and purging the members thereof, and other men are appointed to be charged to declare their consciences touching their Doctrin, life and execution of their office if therein they be scandalous. And it is appointed that any to whose charge any thing is laid, ought to be removed out of the assembly until his cause be tried, and if he be convict he can have no vote until the Kirk finde satisfaction.

4. That all the Assemblies since the late Reformation begun 38. have upon the objection of scandal against any of the members in the time of the constitution of the meeting removed these members until it was tried and discussed; yea, that in this same meeting at S. *Andrews* upon the objection that the scandal of *Blakater* and others accession to the unlawful engagement was not sufficiently purged by ratification and approbation of their repentance in the Assembly, they were removed from being members, and the Writer *magno hiatu* bids any man in the world bring a reason why some upon such exceptions have been removed, and others against whom were as relevant exceptions admitted? For the other particular that the persons objected against were under scandal of carrying on a course of defection, he saith, it is manifest not only from hear-say and common report, the first whereof is made *Deut.* 13 12. a ground of search, and the other a ground of proceeding against the incestuous person, 1 *Cor* 5. 5. We may see by this what doom the late Commissioners likely might have gotten had the Writer of this paper been Judge, Excommunication summary from the Church, and destruction by the sword from the civil Magistrate, surely considering the crime he charges upon them, and the places cited, no lesse is hinted at (but blessed be God that so ill-wild a cow had short horns) but also from these 4 particulars, 1. The stumbling and sad complaints of the godly against their proceedings. 2. The testimonies and letters of many Presbyteries bearing their stumbling and dissatisfaction with the same. 3. The clear standing Acts, Remonstrances and Declarations of former Assemblies unto which these were diametrally opposite. 4. The testimony of sundry Brethren in the Assembly offering to prove, *&c.* Thus far the Writer. So we have now before us at one view this argument so operous and large, as full and strong as it could be made. To which a very short answer might be made, for all hangs upon this, that the late Commissioners were under a scandal of carrying on a course of defection, and this hangs necessarily upon the third particular last mention'd, which the Writer only dictates magisterially, we deny; which alone layes the whole argument in the hollow, and suspends assent to the conclusion thereof, untill the Writer shall in a new Edition follow out his argument, and make that particular good which he shall never be able to do.

But for clearer satisfaction to all honest Christians about this matter, we present these considerations in answer to this argument: 1. The very like accusation and exception came into the Assemb. 48 from the very Parlia. against the members of the then commission, who were Commiss. to that Assembly, and yet after a long and serious debate it was found (by none more then by our present Protester.) and concluded that none of them could be removed from sitting in the Assemb. and voting in other matters, untill their proceedings were first heard and tried; when the Writer shall shape an answer to justifie the constitution of that Assembly, notwithstanding this that was done, then we doubt not but it shall as

well ſute the late Aſſemb. So we ſee it is contrary to the truth which the Writer alledgeth in anſwer to the firſt Objection againſt this argument, when he ſaith, that though it be true that the members of the Commiſſion have been allowed to ſit untill their proceedings were tried and judged, yet that it is as true, that ſuch objection and exception being propon'd was never rejected, we have given a freſh and recent inſtance to the contrary. What he addeth there, viz. *That ſince the late Reformation there was no cauſe to propound any ſuch thing, the Commiſ. having till this year always carried themſelves faithfully, is to no purpoſe.* We grant the former Commiſſion did carry themſelves faithfully, and that there was no cauſe of propounding that exception againſt the Commiſſion 48. And we affirm, that the Commiſ. 50. carried themſelves faithfully, and that there was no juſt cauſe of propounding that exception againſt them which the Proteſters made; But whether it was ſo or not *in reſpect*, in the very deed it ſelf, ſure both the exceptions, at the time they were made, were both alike as to the Aſſembly, neither the proceedings of the one nor the other Commiſſion being ſo much as looked upon by the Aſſembly, And therefore (to borrow the words of the Writer) we deſire any man in the world to bring a reaſon why the one Aſſembly ſhould be condemned for rejecting ſuch an exception before the proceedings of the perſons excepted againſt were tried and ingaged, whenas the other Aſſem. which rejected the like exception is maintain'd? But good Reader, look forward upon the Writers following of his anſwer to that obiection mention'd: and ſee a myſtery and judge thou if it be not of iniquity againſt all the Gen. Aſſem. of this Kirk, he tels us of an act made an. 1601. and renewed aſſem. 1648. and ſaith, *That it doth neceſſarily infer, that the Commiſſioners of a former Aſſem ſhould not be admitted to ſit as members in the ſucceeding Aſſem. though there be no ſcandall nor exception propounded upon their proceedings untill they be tried, much leſſe when a ſcandall and exception is propounded.* There is a fair blow by one ſtroke given to the conſtitution of all the late aſſemb. of this Kirk *poſterior* to the aſſemb. 48. for in all of them Commiſ. of the preceding aſſemb. *reſpectivè*, have been admitted to ſit as members before their proceedings have been tried and judged, and in that 48. they were admitted to ſit notwithſtanding exception made againſt their ſitting by the ſupreme civil power of the Land. This is remarkable that the Writer to the effect he might pull down the late Aſſemb. 51. he would pull down all the reſt with it, but the truth is, the Writer is ſomething raſh in his aſſertion concerning the conſequence of that act mentioned; Look the the tenor of it as it is extant in Aſſemb 48. *Seſſ.* 6; it ſaith only this much, *That the Commiſ. of the former Aſſembly ſhall give an account of their proceedings ——— in the beginning of the Aſſemb. before any other matter, or can be ſo handled, and their proceedings to be allowed or diſallowed*, &c. from which I conteſſe this much may be inferred by one ſticking preciſely to the letter of the words, that after the Aſſem. is conſtituted the handling of all other matters ſhould be ſuſpended untill the Commiſ. proceedings be tried and put to a point, during which trial the Commiſ that are members *vi materiæ* muſt be removed, becauſe theſe ſame perſons cannot try their own proceedings. But that they may not be admitted in any wiſe to be members of the Aſſem. not ſo much as to vote in the election of a Moderator (which was the thing quarrelled by the Proteſters) cannot be inferred from them. If it were otherwiſe it ſeems ſtrange to me that that ſame Aſſem. 48. which did renew that act, did at that ſame very time admit the Commiſ. of the preceding Aſſem. (ſundry of the preſent Proteſters, and amongſt the reſt none more then the Writer of this paper, and the ſuggeſter to

him

him of this consideration being chief actors in the businesse) to sit as members of the Assem. before their proceedings were tried, yea and to vote in sundry other matters during the time of their trial, and that when there was exception made against them.

But besides this retorsion of the argument (which the Protesters are obliged to salve) in the next place to come to a direct answer, it is certain that every propounding of exceptions or alledgance of scandal against persons, and offering to prove them is not sufficient to remove them from being members of, or sitting in a Gen. Assem. for ever. This the Writer of the late paper acknowledges in answer to *Obj.* 3. against the present argument; Therefore he proceeds to qualifie the exception which may be sufficient for that effect, by setting down two conditions requisite in it, wherein he speaks not altogidder amisse, of which we shall make our use we hope for our advantage, having added a little before for further clearing; first then we humbly conceive that as to the admitting to or removing from sitting in the Gen. Assem. of necessity there must be a difference acknowledged between exceptions made in Presbyteries or Societies by whom Commiss. are chosen to a Gen. Assem. against the election of such or such persons nominate to be Commiss. and exceptions made in the Assem. it self against such as have been chosen by societies from which they come without question, exception or contradiction, and have a formal and regular Commission, the former I confesse being followed and represented doth suspend persons from being admitted to sit as members in the Assem. untill the exceptions be tried, because it is as yet under question whether they be elected and Commissioners, which must be known before they sit as clothed with authority to judge, but the other cannot alwayes, I grant it may and ought when (as the Writer qualifies) 1. The exception for the matter *prima fronte* appears to be relevant in law, i.e. an evident and undoubted fault deserving removing from the Assembly. 2. That for the truth of the fact in application to the persons against whom it is made there be a scandal of some presumptions for it. If either of these be wanting (I cannot in any wayes accord with the Writer in that alternative which he addeth in the second condition, *Or some offering to instruct or make it out, suppose the matter be clearly relevant in Law*, for grant that, and still the absurd consequence followeth of a ready way made for perverse bold persons to disappoint the Kirk of all Assemblies for ever) if either I say of these be wanting, the exception is not relevant to remove persons from sitting as members in the Assembly before the exception be tried and judged, though it be true that the Assembly being constitute the exception and grounds thereof ought to be tried with all convenient diligence and expedition; which was offered to the Protesters in the present case in debate. Ay but saith the Writer in hand; *Both these were clear in the present case*, viz *the exception made against the late Commissioners it was relevant in fure, if there be any relevant why a man should not sit in the generall Assembly, this certainly is one that he hath betrayed his former trust, hath made defection from the Covenant and Cause, and been instrumentall to carry on a course of defection throughout the Kirk and Kingdome. And as the truth of the fact in reference to these against whom the exception was made all these did concurre, a flagrant scandall, pregnant presumptions and persons in the judicature offering to instruct and verifie what was alledged.* By this the Writer believes that he has clear'd as with a Sunne-beam, and gained his point; But we hope it shall be made to appear that he hath left the matter yet in the mist, and gained never a whit. It is true indeed

deed that for Commissioners to betray their trust, to make defection from the Covenant and Cause, &c. is *in jure* relevant cause to exclude any man from sitting in the General Assembly as a member, and deserves more (as I doubt not but the Writer and some others intended the challenge of it against the Commissioners for more) but that the Commissioners for matter of fact had betrayed their trust, &c. there might have been and was indeed by some (these same who afterward accused them in the Assembly) spread a fragrant scandal, but there was no fragrant scandal nor relevant presumptions (I mean presumptions objective by any thing they did, though there was presumption enough in some men against them) and for some persons offering to instruct it, that is to little purpose to argue them scandalous considering from what this may often times proceed. But the great sophisme in this whole discourse (whereunto I will not determine whether out of inadvertency or willingly the Writer hath run) lieth in this, that the main and principal Question *de jure*, which should have been clear to the effect that scandal might have been justly charged upon the Commissioners, was not that General or *Thesis*, whether betraying of trust and making defection from the Covenant and Cause be such a fault as deserveth exclusion from sitting as a member in a General Assembly, but this particular or *hypothesis*, whether the resolving that all persons in the Land, excepting such as are notoriously prophane, &c. may be admitted to joyn in arms for just and necessary defence of the Kingdom, when otherwise there cannot be forces had competent in warrantable prudence for the defence of it. *Item*, Resolving that the time of civil censures inflicted by the Parliament upon persons accessary to former malignant courses, as the sinful engagement, might be dispensed with, and taken off by the Parliament with this provision that none should be admitted to places of power and trust, but such as are qualified positively according to the rules of the Word of God in that case held forth in our solemn Engagement. *Item*, Ordaining Presbyteries to proceed with persons formerly guilty of malignant courses for admission of them unto publick repentance in a way conform to the rules set down by the Gen. Ass. or admitting of such upon testimonials from Presbyteries bearing satisfaction given by them conform to these rules; whether these things, I say, contains defection from the Covenant and cause, and consequently doth import betraying of trust in a Commission intrusted with the care of preserving the Covenant and cause? This is a question *in jure* that the Writer should have alledged to have been clear, I mean in the affirmative of it, ere he had alledged, there was upon the late Commissioners a scandal of some presumptions that they had betrayed their trust, and made defection from the Covenant and cause, but the Writer passes by this in silence. Now this we might say, and are able in the Lords strength to make it good, that these things contain not any defection from the Cause or Covenant: Yet now we shall say but this, that this was not at the time of the Protestation clear to the Assemb. because there was not yet any particular determination thereabout in former Gen. Assemblies. Wherefore for further clearing of this matter that we are upon, The excluding of persons chosen by their Presbyteries without contradiction to be Com. from sitting as members in the Ass. m upon alledgance of scandal against them, it would be observed by all honest and ingenuous Readers, that when the imputation of scandal upon them depends upon a particular *hypothesis de jure*, w^ich at least is questionable, and a very point in controversie between them and their accusers, it is against all reason and equity that they should be holden to be under a presumption of scandal, till that *hypothesis* be discussed and cleared, and therefore untill that

that be done, the adversaries alledgance of scandal against them, is to be held but as a meer alledgance, which by the Writers own confession is not a sufficient ground whereupon to exclude persons from being admitted to sit as members in a General Assembly, untill their cause be tryed and judged. It is known that the Belgick Remonstrants in their Protestation against the Synod of *Dort* alledged a matter of scandall against the most part of the Members thereof, *viz.* that they had made a Schism, and were Schismaticks. The point *de jure in Thesi*, that Schism was a foul scandal, and such as made them unfit to sit in that Judicatory as Members, I suppose was clear; and the Remonstrants brought many plausible presumptions, that they were guilty of it; more plausible a great deal then the Writer alledges against the late Commissioners; they bring particular instances of facts; as keeping separate Congregations & Presbyteries from the Remonstrants, refusing to joyn in Prayers or Sacraments with them; whereas our Writer alledges nothing but generals, offence of many godly, pregnant presumptions, men undertaking to instruct, &c. But here was a question in *Hypothesi*, Whether it be Schism to keep separated Congregations and Presbyteries from; And to refuse to joyn in Prayers and Sacraments with men, who had departed in their Doctrine from such & such Articles of the Doctrine of that reformed Kirk as the Remonstrants had done; And therefore these Ministers accused by them could not be held as under the scandal of Schism or presumption thereof, until the points in controversie were tryed, whether the Remonstrants Tenets were errors, and of what consequence and importance they were; And untill then the Remonstrants challenge of Schism against them could not be reputed but a meer alledgance. I know other things were answered to this reason of that Protestation by the Forraign Divines from the matters themselves in controversie between the one and the others; but it may be easily perceived in sundry of their judgments upon that Protestation, that they had also an eye to this that we have said. Hence is that of the judicious Divines of Britain in the second Branch of their answer to that accusation. *Constat hac Synodus ex personis nulla censurâ Ecclesiasticâ notatis, nullo publico aut legitimo judicio de schismate convictis unquam aut condemnatis, protestatio autem Remonstrantium facta in contrarium vim latæ sententiæ habere non debet*: And that of the *Hassian* Divines, *Et veneranda & sancta hac Synodus congregata in eum finem ut Doctrinam Remonstrantium propositam defensamque audiat, ad Dei verbum probè examinet, de ejus veritate vel falsitate pronuntiet; eousque igitur sententiam de schismate ejusque authoribus suspendendam esse sentimus.* So say we the main business of the late General Assembly, was to hear, try and examine the proceedings and resolutions of the late Commissioners, whether they were conform to the Word of God, the Covenant and Constitutions of the Kirk, and what could be said for, or against them; And therefore until then was the matter of defection objected to them to be suspended. From all this that hath been said it is evident, that seeing the Assembly was to go about the tryal of the Commissioners proceedings with all convenient expedition, it is no ways a relevant exception against the constitution and freedom of the Assembly, that they were admitted to sit as Members, notwithstanding the exception that was alledged against their sitting: and as for this same objection, it was so far from sticking upon the Protesters themselves at first, that Mr. *Andrew Cant*, with the good liking of all of them did put Mr. *Robert Blair* and Mr. *William Raite* upon the List of Moderator; and sundry of them gave Mr. *Robert Blair* their vote to be Moderator, let be to sit as an ordinary Member of the Assembly.

§. As for particulars contained in the Writers large profecution of the Argument, we ſhall not need to inſiſt much upon them, nor yet will we follow him in his anſwers to objections; only ſomewhat briefly to ſome particulars: And firſt to what is alledged from the Aſſembly, 1562. 80 81.

1. It had been good, the Writer had ſet down the very Acts related in their full and formal words, that we might have ſeen (for every one of us are not keepers of the Regiſters, nor have Copies of them beſide us) whether they meant all perſons againſt whom any ſcandal was alledged ſhould be removed even before the Aſſembly conſtitute into a Iudicatory (which was the thing intended by the Proteſters, and becauſe not done was the ground of this Quarrel) for we ſee not this by any thing that is brought here.

2. We ſuppoſe it could not be the mind of theſe Aſſemblies, that alledgance of ſcandal againſt perſons ſhould be a cauſe to remove them from ſitting in the Aſſembly as Members altogether, unleſs the ſcandal were clear and unqueſtionable for the point *de jure*, and ſo their appointment comes not home to our preſent caſe. Next for the grounds brought to prove that the Commiſſioners were under ſcandal of defection,

1. We grant that hear ſay, or common report, may be a ground of enquiry concerning a matter of ſcandal; but this was not refuſed about the preſent caſe in queſtion.

2. As for that cited, 2 *Cor.* 5. 5. that proceeding ordered there, was to preſent Cenſure, and ſo we may ſee the Brothers minde that writeth; this is that the Commiſſioners upon that common report, which he alledgeth to have been paſſing upon them, ſhould have been without more ado ſentenced to Cenſure: Good Sir hold your hand; for my part I cannot wonder enough that he ſhould have alledged from the Apoſtles words ſo generally, without any qualification, that common report may be a ground of preſent ſentence againſt a perſon, as he doth here. Certainly this ought to have been well qualified and limited, otherwiſe a wide door is opened to injuſtice, and undoing even the moſt innocent and guiltleſs men; for cannot one or two, or ſome few evil tongues, ſpread an evil report of very honeſt men? and how eaſily ſhall that report become common, if that of the Poet be true, as it is moſt certainly,

Fama malum quo non aliud velocius ullum,
Mobilitate viget, viresque acquirit eundo.

Therefore a common report that may be a ground of ſo ſhort and ſummary proceeding, muſt be ſuch as,

1. Is of a matter that in point *de jure* is clear, and unqueſtionably a ſcandal.

2. For the Fact is in a manner univerſal, uncontradicted, either by the party or any that have beſt and neereſt notice of his actions; both were in that matter of the *Corinthian*; The matter was *in Jure*, clearly an heynous crime, Inceſt, *viz.* having his Fathers wife; and for the Fact, the report that had come to *Paul* was ſuch as we have ſaid. *Omnino auditur*, as the *Arabian* Interpreter, marked by *Beza* hath it, *Paſſim & in tota Achaia*: And another Interpreter on the place, in *Mayorat*, q.d. *Sine negatione, ſine tergiverſatione, non dubium eſt rumor, ſed res manifeſta paſſim cum magno offendiculo publicata.*

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In the present case in hand both conditions were wanting; the matter was not clear *de jure* in the main question of it; the report was not so common as the contradiction thereof,

3 The offence and stumbling of the godly at the proceedings of the Commissioners might have been, and was indeed not given by these proceedings of themselves, but caused and born upon them by the mis-information and mis-representation of them by some of these same persons who are the alledgers and accusers, as will be made good to any unpartial judge in the world, by a right information and discovery of the proceedings themselves, and of the practisings of the Accusers against them; and therefore this can be no argument of the Commissioners being under scandal.

4 There were more testimonies by very far from Presbyteries and Synods for them, and these testimonies given against them were really, and in them scandals tending most evidently to exposing of the Kingdom and Cause to the power of the Invaders, whereof the Invaders themselves were very sensible; and for that cause were some of these testimonies sooner put in their hands then communicated to the Commission, and they in thankfulness were very careful to cause print them.

5 The third particular is a poor mans argument, a begging of the very principal question, and this very begged question is the only main sinew of this whole Paper repeated over and over again: This the Assembly was to try and examine, and till it was tryed a Naysay was good enough answer to his affirmation.

6 The brethren who in the Assemblie offered to prove the alledgance, were some of the same who had been chief in spreading the testimonies, and bearing the offence upon the Godly, and had defamed the Commissioners, and so were interessed to have them noted as under scandal: It is against all equitie, that for the accusation of such they should have been reputed scandalous; it was a good word of justice uttered by a man otherwise wicked, *Julian* the Apostate, *Quis innocens esse poterit si accusasse sufficiet?*

It is alledged by the Writer, that in the same Assemblie at St. *Andrews* upon the like exception and objection, others were removed, as *Blaketer* and others, because the scandal of their accession unto the unlawful Engagement was not sufficiently purged, &c. And he would have any man in the World give a reason why those were excluded, and not others, against whom were as relevant, yea more relevant exceptions?

Answ. I think any man in the world that hath common sense, informed of both cases, may give a reason, and may perceive that the Writer hath been rash when he writ these words, *upon the like exception, and as relevant, yea more relevant exception.* for *Blaketer* and these others.

1 Their scandal was clear in Law.

2 They had been convinced of the fact. Yea,

3 They had been actually censured, and were yet lying under the censure.

4 A part of their censure was exclusive from being Members of Kirk judicatories.

5 There was an expres act of a general Assemblie, that such persons should not be liberate from that censure, nor be capable to be members of any inferiour Kirk judicatorie, until their satisfaction should be first notified unto, and approven by a general Assembly: and therefore they could not so much as been members of Presbyteries to be upon lists for Commissioners to the General Assembly. Now let any man in the world tell me if the exception against the one and the other was alike;

or if there was more relevancy in the exception against these Commissioners, then in the exception against those for their exclusion from being members: The matter of the exception might happily considered *in abstracto*, be of greater importance; but we speak now of the exception in relation to persons and circumstances, as it is to have effect or no; to have effect upon the Judge for censuring and noting, or not censuring and noting the persons.

We said we would not follow the several Objections wherewith the Writer meets, nor need we; only there is something in the answer to the fourth Objection, whereunto we shall speak a word.

It being objected by the Writer unto himself, or by some other (it matters not us whom) that the exception could not be taken unto consideration, until the judicatory were first constituted, and a Moderator chosen; and that therefore it was not against the liberty of the Assembly that they did refuse to fall upon it before that was done: he replyes so as he would seem to fasten sundry points of iniquity upon the Assemblies carriage in this matter: If (saith he) the Assembly had immediatly upon the choosing of the Moderator fallen upon the trial of that exception, and remov'd those men, it would not have loosed, though it might have lessened the strength of the argument; but even after that they were allowed to sit as Members, and to be Judges in every thing else for many daies together, before the judging of that exception; Nay, which is more, before their proceedings were approven, they sate as Judges to give vote and sentence upon the very exception propounded against themselves; the same being one of the principal reasons of the Protestation, which was condemned before these proceedings were approven; yet that would not (saith he) loosed the difficulty, because the thing desired was not the discussion of the exception instantly before the choosing of the Moderator, but as it was done to other Members excepted against; so those should be laid aside until the Assembly were constitute, and take the same into consideration. This the Assembly peremptorily refused, and admitted them to vote, which was in effect to reject the exception, either as non-relevant, or as false; both which were absurd: The former would have been to contradict clear light of reason; the latter had been to approve the proceedings before their trial or hearing, what was to be said for verifying the exception.

Answ. We stay not much upon the Objection, but especially to what is said here to render the proceeding of the Assembly in this matter odious.

1. The Assembly did immediatly after the choosing of the Moderator, fall upon the trial of that exception, having set apart a Committee for that very purpose, to go about it with all diligence. And that the Commissioners did in the mean time sit and vote in the Assembly in other matters for sundry daies, was because the Assembly could not adjourn and be idle all the time that that Committee was to be upon that business. And it had been the constant practice of the preceding Assemblyes since 38, to admit the preceding Commissioners to sit and vote in other matters during the time that their proceedings were under trial and examination; yea, even when exception hath been made against them, as is evident in the Assembly, 48.

2. In that which is brought in as an absurdity, with a *quod majus est*, that before their proceedings were allowed, the Commissioners did sit as Judges upon the very exception propounded against themselves; it being the principal reason of the Protestation, &c. containeth a gross Paralogism, which can beguile none but such as are too simple, or too willing to be beguiled, to think evil of the Assembly; For in judging the Protestation, whereof a reason was the exception against the Commissioners

missioners sitting in the general Assembly, before trial of their proceedings, judgement was not given upon the truth or falshood of the thing contained aberein, *i. e.* Whether the proceedings of the Commissioners were right or wrong, contained in them a course of defection, or not? but only whether the Assembly refusing to remove the Commissioners when that was alledged against them in the way that it was alledged, and before the alledgance was tried, did any thing contrary to the duty and freedome of the Assembly; or if the Protesters did wrong the Assembly in declining it upon that ground. Now for the Commissioners to sit and vote in this matter, was no irregularity, or else the Assembly 48. also was irregular; wherein as the Protesters may well remember, the Commissioners voted as well as other Members upon the relevancy of the exception given in by the Parliament against themselves. And the truth is, their voting in the matter of the Protestation being no other thing but that which we have said, was no prejudice for their advantage in the matter of their proceedings; for the alledgance of their carrying on in their proceedings a course of defection at the time and in the manner it was alledged, might have been found a non-relevant exception for their removal from being Members before the trial of their proceedings, and consequently the refusing to admit it as an exception to that effect a non-relevant ground of Protestation against the Assembly; and yet haply afterwards their proceedings upon trial might be found and judged to be such indeed as they were alledged to be, without any clashing or contradiction between the one act and the other.

3. Howsoever it be true that the thing which was desired by the Protesters in the entry of the Assembly, and before the choyce of the Moderator, was not expresly and formally the trial and discussion of the exception given against the Commissioners, *as to the truth of the thing alledged therein*; i. e. Whether indeed the Commissioners had carried on a course of defection from the Covenant and Cause, but that the Commissioners should be laid aside until the Assembly had been constitute to take that into consideration: Yet certain it is, that they having been chosen to be Commissioners unquestionably by the Societies they came from (and some of them by the expres vote and consent of some of the Protesters themselves; as Mr. *Robert Blair* In the Presbytery, and Mr. *James Wood* in the University of Saint *Andrews*, by Mr. *Samuel Rutherford*) and having a formal Commission, and so the exception being personal (as in relation to that Assembly) and not propounded against their being Commissioners, but now in the Assembly convened; of necessity the exception behoved to have been tried, and discussed, and judged, *as to the relevancy of it for their present removing and laying aside*, until it should be tried and discussed *as to the truth of the thing contained in it*: For the Writer himself confesseth, that every exception upon alledgance of Scandal, is not a sufficient and relevant ground to that effect. Now there was a great question about that exception, namely, concerning a question *de jure*, belonging to it, as we have before cleared. Now tell me if the Assembly before the election of the Moderator, and before it was constitute into a Judicatory, could try, and discuss, and judge that question (which of necessity it behoved to do before it could be clear about the relevancy of the exception for their removing, because as the Writer grants, the exception relevant to remove persons, must be *primâ fronte* clear in Law) certainly it could not; and therefore of necessity they could not upon that exception be removed before the election of the Moderator, and constitution of the Judicatory.

As for other Members excepted against, and thereupon removed, there was a wide difference; The exceptions against them were, as to their relevancy for re-

moving now in cases every way clear, and determined before, in so far as was requisite to that end, *e.g.* Protestations in Presbyteries against their Election, standing censures excluding them from all such Iudicatories unrepealed. So we see the objection wherewith the Writer meets there, may stand good with a little explication, *viz.* that no exception questionable could be discussed untill the Iudicatory were first constitute, and the Moderator chosen; and therefore that it makes nothing against the freedom of the late Assembly: that before it was constitute, and the Moderator chosen, the Commissioners were not removed upon the exception made against them, because the relevancy of the exception was questionable, a main point *de jure* thereunto belonging, being controverted at least, and not *primâ fronte* clear; the clearing and discussing whereof, also did most intimately and essentially belong to the verifying, or falsifying of the exception upon the matter it self, wherewith a meeting not constitute into a Iudicatory could not meddle.

4. As to the Writers *dilemma* in the end, that the refusing to remove the Commissioners, upon the exception made against them, was to determine, either that the exception was not relevant, or that it was false, and both were absurd. We answer, It was indeed to determine that it was not relevant in that circumstance of time when it was propounded for removing them of the Assembly: and whereas he saith, this were to contradict clear reason; this is but a naked assertion, and we have cleared the contrary.

So now we shall pass to the next ground of the Protestation; what is contained in the Writer of the second Paper, his Replyes to his fifth objection, or other Objections, is either nothing to the infringing of our Answer, or cleared by what hath been said already; only this much I add, these men whom he says have fallen from their stedfastness, and made defection, at which others could not wink because of their former integrity, some of them have been stedfast in the Truth and Cause of God, when others that accuse them knew it not: some of them we doubt not will by Gods grace give testimony of their stedfastness in it in their suffering condition, when some that accuse them, may be will be found, or already are tampering about, and devising glosses how they may with some colour shuffle themselves, and loose some Articles of the Covenant: And the Writer shall never be able to instance that they had made defection in their late resolutions either from any Article of the Covenant from the truth of Religion in any head thereof, Doctrine, Worship, Discipline or Government received and established in this Kirk, or from practising, according to that truth, I mean by any publick allowed practise or course contrary thereunto; For as for personal failings and short comings in particular duties, they know themselves to be but men compassed about with a body of death, and we doubt not but they are as far from Pharisaical justifying themselves as others. As to the particulars mentioned in the Protestation, that they stirred up the Civil Magistrate against such as were unsatisfied with their proceedings, is contrary to the truth, as shall be cleared afterward. Their alledged prelimking of the Assemblie, is answered before. The next Argument, as it is formed and enlarged in the second Paper. *The meeting at St. Andrews had no liberty nor freedom to vote in matters agitated and debated therein*; which is alledged to be manifest in these particulars.

1. *The Commission had in their Remonstrances and Papers stirred up the Civil Magistrate against such as did differ from them in their resolutions and proceedings; and accordingly the Magistrate had confined some Ministers,* viz. *those of* Sterling *upon that account; and had made Laws and Acts of Parliament, ordaining all such to be proceeded against, as enemies to Religion and the Kingdom.*

2. *The*

2. *The Commiſſion had by their Warnings and Papers to Presbyteries ſtirred up Presbyteries to cenſure ſuch, and cite them to the General Aſſembly; and accordingly the Presbyteries did cite many of them.*

3. *The Kings Majeſtie writ to the Aſſembly a Letter, moving and ſtirring them up to puniſh, and cenſure thoſe who differed from the publick reſolutions, and the Commiſſioner did ſecond the ſame by his Speech to the Aſſembly, intimating that he hoped ſuch courſe ſhould be taken with them, that all others might be deterred from the like thereafter; none of theſe things that meeting did reſent, but were ſilent thereat, and afterwards did approve.*

Anſw. To the firſt particular. 1. It is contrary to the truth that the Commiſſion had in their Papers ſtirred up the Civil Magiſtrate againſt ſuch as did differ from them about their reſolutions and proceedings. The Writer, if he would have dealt ingenuouſly and faithfully, either with the Commiſſioners, or with ſuch as were to read his Paper, he ſhould have inſtanced at leaſt ſome one or two (for he ſpeaks as if this had been done in ſundry Papers) paſſages out of their papers bearing this.

2. That the Civil Magiſtrate did cenſure (as the Writer termeth them, requiring them to ſtay at *Perth* for a ſpace, untill their buſineſs ſhould be cognoſced) the Miniſters of *Sterling*, being ſtirred up thereunto by the Commiſſioners; and he confined them upon that account, *viz.* that they differed from the publike reſolutions, both are affirmed wrongfully, and contrary to the truth. The real ſtory of that buſineſs was this in ſum, The Committee having been informed, that the Miniſters of *Sterling* were in their publick Doctrine, and otherwiſe practiſing, hindering the Levies according to publick reſolutions, and moving ſundry perſons in the Garriſon of *Sterling* to quit and deſert their charge, which tended to the endangering the whole Land, and particularly that Garriſon, then the only Bulwark of the Land under God: the Committee repreſented the matter to the Commiſſioners of the General Aſſembly, ſignifying to them that they could not permit that Garriſon to be ſo endangered, yet in regard they were Miniſters, they deſired the Commiſſion to take a dealing with them firſt, and required the Commiſſion to make report to them, what effect their dealing with the Brethren ſhould take; The Commiſſion accordingly having met at St. *Andrews*, and had a conference with thoſe Brethren, and having found by their own acknowledgment, that in publick they had preached againſt the publick Reſolutions, and in private had given to ſome perſons, as they ſaid, asking their advice, reſolution, that it was not lawfull to continue in that ſervice, being in ſuch a conjunction as the reſolutions carryed. Firſt, they laboured to give them ſatisfaction about the reſolutions; but having effectuate nothing therein, at laſt they dealt with them in much earneſtneſs and tenderneſs, both publickly and privately to give aſſurance that they would not proceed to do or ſpeak any thing in their publick Doctrine, or in private, to the hindring, and obſtructing of the Levies which were going on according to the reſolutions, or might tend to the moving of any of the Garriſon to quit their charge, which they peremptorily refuſed to do, and ſo departed home from the Conference. The Commiſſion having ſent a meer report *rei geſtæ*, without more or leſs to the Committee of Eſtates, according as they were required: The Committee required theſe Brethren by Letters to come to *Perth*, that ſome courſe might be taken in relation to them, for ſecuring the Garriſon of *Sterling* from danger. The Brethren having come to *Perth*, but not at the firſt Dyet appointed to them, the Committee required them to abide at *Perth* or *Dundee*, until the Kings returning from *Aberdeen*, that there might be a more full meeting of the Committee, a great part of the moſt conſiderable Members thereof being with him.

After

After the Kings return, a Paper being sent in by the Committee of Estates to the Commission of the Kirk, requiring the Commissions advice, as about some other passages that had passed between them and these Brethren, so what they thought fit should be done with the Brethren in relation to the securing of the Garrison of *Sterling*. The Commission in their answer declared, that as to this they could not take upon them to determine the matter, being meerly civil; but that they desired and expected that the Committee would deal with them with tenderness and respect, as being Ministers of the Gospel: This is the truth of that business in sum. So that it appeareth evidently, that the Civil Magistrate did confine them (as they are pleased to term it) neither being stirred up thereto by the Commissioners, nor yet upon the account of their meer differing from the Commission in the publick resolutions, but upon the account of their active opposing of the resolutions, to the obstructing of the Levies, and endangering the Garrison, and their refusing to desist from that opposition: And what is all this to the freedom of voycing in the Assembly?

But neither must it be forgotten here, what was the issue of that confinement (as the Writer terms it) and compliering of these Brethren before the Committee: If the Writer be ignorant of it, let him know it was this: Mr. *Robert Douglas*, and Mr. *James Wood* being dealt with by some of these Brethrens intimate friends to intercede with the Parliament (which was then convened) to pass from calling them further, did readily undertake it, and obtained their desire, that they were dismissed presently: and though then one of these Brethren came and acknowledged to these two the kindness done in their behalf; yet now in the Protestation, and in this second Paper, it is requited with a slander, That they with the other Commissioners stirred up the Civil Magistrate against them for differing from the publick resolutions.

To the second particular; The Commission in their Act and last Letter to Presbyteries, did restrain Presbyteries from censuring any of them; they did not so much as desire any to be referred or cited to the General Assembly for differing from them in the resolutions, but only such as continued to oppose; Presbyteries cited but few, as will be found by Registers of the Assembly; and some of them were chosen Commissioners to the Assembly: But was there not far more done 48? Did not the Commission stir up Presbyteries to cite all that were in the meanest degree of difference from them? *viz* such as were only guilty of silence, and not speaking with them, and to censure forthwith all that opposed? Will the Writer therefore say that voycing in these matters was not free in that Assembly? If not then, why doth he use double weights?

To the third particular, Concerning the Kings Letter, and the Commissioners Speech to the Assembly, there was not one word in them more or less for punishing or censuring any for differing from the publick resolutions: but if any thing of that kind was desired, it was for opposing, to the weakning of the hands of the Kingdom, and strengthning the hands of the Enemies joyned with expressions of earnest desire to endeavour by all fair means to gain all that differed to unity: Did this take away the freedom and liberty of voycing? especially considering that what was desired was propounded by way of meer desire, without any threatning or allurement to byass mens voting.

But that the honest Reader may be able the better to give his judgement of this matter, he may with little pains come by the Copy of the Commissioners Speech, and of the Letter also. Alwaies whatever was in the Letter or Speech, I dare affirm

that

that in that Assembly there was as great freedom and liberty in speaking and voting about these resolutions in debate, as well as any other, as well *contra* as *pro*, as there was in any Assembly these years bypast: Yea more then was in some of them; whereln it is well known, that oftentimes to the grief of men in the Kirk, most eminent for grace, gifts, gravity, age and experience, some who now undeservedly accuse this Assembly of the want of liberty and freedom, have endeavoured to carry matters with a strong hand, crying down with sharp reflexions, and flouting such as any way dared to speak or vote in a different way from them; which, if reports may be believed, some of them has acknowledged in their late confessions.

§. The Writer after the propounding of this Argument, meets with one Objection against it; We shall not stay upon discussing of his Reply, as it relates to that Objection, but shall speak a word to that which he chargeth upon the Kings Letter as unorderly and irregular; *Viz.* That *whileas the Assembly had not yet medled with the publick resolutions and proceedings, to condemn or approve them, he should have stirred up the Assembly to censure such as differed from them.*

Answ. Besides that, as hath been already said, the Assembly was not desired to censure any for differing from the publick Resolutions simply.

1. It was not desired that the Assembly should censure them, without trying, and approving the Resolutions; nor was it desired that the Assembly should approve without due tryal; but the King supposing them to be right and just in themselves, and that the Assembly, upon due tryal, could not but finde them to be such, desired that such as had opposed them to the prejudice of the defence of the Cause, and Kingdom, might be dealt with to be reclaimed, or if that could not be obtained, Censured.

2. Consider what case he was in here; he was obliged by Treaty to follow the advice of the Commission of the Kirk in the intervals of Assemblies in matters Ecclesiastick, he had sought and gotten their advice in these matters questioned; and no men in *Scotland* were more earnest to have that Condition in the Articles of the Treaty, then these that accuse him here.

Object. *But he should have used his judgment of discretion upon any resolutions given to him by the Commission.*

I confess that is true, but yet any man may perceive that the words of that Article of the Treaty are very peremptory and general in the Letter; for no more is said, but that he should follow the advice of the Commission: and it is well known, that when it was motioned that it should have been expresly added, *Agreeable to the word of God, and Doctrine and Constitutions of this Kirk*, the motion was opposed, and stopped by some of the Accusers; this I speak, not to say that he was bound to give blind obedience, but only that he was in a right ticklish case here: But waving this, The Civil Magistrate being convinced in his conscience upon good, true and solid grounds of the errour of some Doctrine or Practice of some Ministers (which is not yet particularly determined in *Hypothesi* by any constitution of the Kirk) and of the evil which they have done to the Publick in following it, may he not exhort a general Assembly, being convened even in the entry thereof to censure such, without prelimiting, and encroaching upon the liberty and freedom of the Assembly in judging and voting upon it? I doubt, if he may not. But suppose he cannot without incroaching and prelimitation Active upon his part: yet sure this cannot prove the Assembly not free in voting and judging, unless there can be some evidence given of the impression and effect of it upon the Members in their voting and judging.

A Judge may be tempted and solicited, and yet be unquestionably unco-rupted, and free in his Judging.

§. The next Argument, proper to the second Paper, is because in the Assembly at St. *Andrews*, persons allowed by acts, and the policy of this Kirk to speak their consciences, were denyed liberty so to do; and to prove this, the Writer

1. Takes much pains to shew from old Acts of this Kirk, that not only persons Ecclesiastick, having Calling and power to vote, but others also, are allowed to propone, and reason, yea, and to present their thoughts in writing to the Assembly; but he needed not to have been at so much pains in casting over so many Assemblies for this purpose. The point is generally confessed in all Orthodox Kirks, and known to any that hath read the common head *de conciliis* in their *Systems*.

2. He saith, that Sir *Archibald Johnston* (whom he mentions with many *Encomia*, to make the matter he is to speak more bulksom) *having written his minde to the meeting, not able to come himself about the things, to be agitate in the Assembly, holding forth much clear light from the Scripture, and Acts of former Assemblies in these particulars* (If it was such light as he held forth in some of these same particulars at *Perth*, it was but very little, and not much to be feared by any of a contrary minde) *also the Letter was publickly delivered, required to be read by him that presented it; the Moderator having broken it up, promised to cause read it, and many members did, at sundry occasions, press the reading of it; yet it could never be obtained, but was smothered together with a Protestation contained therein, against a Paper of the Commission to the Parliament, approving what was done by the King and Committee of Estates, to the Ministers of Sterling.*

Answ. Here is much want of ingenuity, and nothing to the truth of the matter, making against the freedom of the Assembly: The Assembly never refused to have it read; most part of the whole Assembly were earnestly desirous to have it read, and none more then most part of those whom the Writer would insinuate unto his Readers unacquainted with the business, to have been the opposers of the reading of it, and smotherers of it, as being of a different judgement from Sir *Archibald*, and feared for the pith of his Papers. The truth of that business was this, as I doubt not but the Writer knows in his conscience, had he been so ingenuous as to tel it. Some persons in the Assembly, bearing much respect and tenderness toward Sir *Archibald*, partly because of intimate friendship with him, partly because of his many former good services, did plead for a delay; alledging it was unreasonable that the Assemblies precious time, whereof they knew not how short liberty they might have, should be spent upon reading any particular mans letters, whereas the Committees were not yet nominate and constitute, and the proceedings of the Commission, which by the appointment of former Assemblies ought to be the first business taken to consideration, were not so much as once looked upon: and indeed, the Papers which were sent and desired to be read, concerning his minde, amounted to such a Volume, as the reading thereof might have taken up all the time that the Assembly could probably expect for sitting, though never another business had been touched: There was, if my memory fail me not, a letter of four or five sheets of thick Writ; and other Papers which it required to be read before the Assembly did enter upon the first action the appointing of Committees amounting to the number of 100. sheets at least; And must it be such a crime, as for which the Assembly must be judged null, that such a motion was delayed, and referred to a more convenient time; which was the only thing that the Assembly did? And that not of their own inclination, but upon much intreaty, and pleading, by some of his best wel-wishers in the Assembly

who

who although they alledged only the cauſe we have mentioned, in publick, yet had another cauſe of their pleading earneſtly for this, which they did in a private way communicate to ſome who were deſirous they ſhould be read, and thereby moved them to deſiſt from urging ſo earneſtly the reading of them; not out of feat of the Papers, nor diſ-reſpect to his Lordſhip, but out of meer kindneſs and reſpect, becauſe, *viz.* they did perceive by looking on them I believe in private, ſundry high reflexions againſt the Supreme Powers of the Kingdom, both King and States, which could not but have brought him in preſent trouble. This is the very true ſtory of that buſineſs. Judge thou then, ingenuous Reader, impartially, if this be either a conſciencious or relevant argument to vilifie that Aſſembly: But adde withal, that in the Aſſembly either 48 or 49 (I do not diſtinctly remember which, but the thing is certain, and the Writer may be will remember better) a Paper concerning matters then in debate given to the Aſſembly, and deſired to be read, was publickly laid aſide, and refuſed to be read, and yet the lawfulneſs of that Aſſembly is not queſtioned. The Writer in the cloſe of this argument would intimate to the Reader, that the Commiſſioners had been Authors of ſmothering theſe Papers of Sir *Archibald Johnſtons*, becauſe of a Proteſtation contained therein againſt a Paper of theirs, approving what was done by the Kirk and Committee to the Miniſters of *Sterling*. But if he meaneth ſo, it is a wrongful ſlandering of them; the Commiſſioners were very far from deſiring them to be ſmothered, though ſome one or two of them out of tender reſpect to his Lordſhip, were unwilling that he ſhould be brought into trouble by them: Nor feared they his Proteſtation againſt that Paper of theirs, againſt which nor he nor any other for him could have any juſt ground of challenge: The ſum and ſubſtance whereof was nothing elſe but a clearing of the Commiſſees calling before them the Miniſters of *Sterling* (after they had been dealt with by the Commiſſion of the Kirk about their preaching and practiſing, to the obſtructing of the Levies according to the publick reſolutions, and occaſioning ſome to relinquiſh their charge in the Gariſon of *Sterling*, and they refuſed to deſiſt) that ſome convenient courſe might be taken in relation to them, for ſecuring the Gariſon from danger, from the guilt of encroaching upon the liberties of the Kirk, charged upon them by a Proteſtation of theſe Miniſters of a very high ſtrain; and together approving theſe Brethrens proteſting, in ſo far as it was proviſional for the liberties and priviledges of the Kirk; and expreſſing their deſires that theſe Brethren might be dealt with by the Kirk and Committee in a tender and reſpectful way, as Miniſters of the Goſpel.

The laſt argument is, That it cannot be a lawful free Aſſembly in which perſons lawfully under trial are admitted to ſit as Judges in the ſame thing for which they are under trial; but the meetings of St. *Andrews* and *Dundee* was ſuch; the Commiſſioners therein were admitted to ſit as Judges in the ſame thing for which they were under trial. This is abſolutely denied; but the Writer goeth about to prove it by inſtance of ſome particulars.

1. *Becauſe the Commiſſioners before the approbation of their proceedings, did ſit as Judges of the Proteſtation; a part whereof was, that their proceedings ſhould not be ratified, becauſe they did involve a conjunction with the Malignant party, contrary to &c.*

2. *They did alſo before the approbation of their proceedings, judge the perſons who had given it in; and did give their voyces amongſt others, who of them ſhould be cited in order to cenſure.*

3. *Nay the Committee wherein that buſineſs relating to the Proteſtation, and in giving of it (upon whoſe report the reſolution of the Aſſembly did mainly hang) was handled,*

was for the most part of it made up of Members of the Commission; which things will be acknowledged we believe (saith he) *by indifferent men, unsuitable and inconsistent with the Liberty of a free General Assembly.*

And then he addeth, *That neither would he have others, nor do they themselves lay much weight upon this argument, unless two points of fact upon which it is grounded be found clear.*

1. *That the Protestation was judged, and the five Members* (it was yet questionable whether they were Members or not, their Commissions being controverted, unless he thinks they were essentially Members) *were appointed to be cited before the approving of the Commission of the Kirk.*

2. *That the Members of the Commission had voyce in these things; insinuating, that if these matters of fact be clear, as they were informed, the argument is valid to batter down that Assembly, as not free and null.*

Answ. It's true, these five persons were appointed to be cited before the approbation of the proceedings of the Commission, but not in relation to censure absolutely and peremptorily, but to answer for their declining, and in case they should not justifie it, or pass from it to be censured. Whether the Protestation it self was judged before the approbation of the Commission, my memory serveth me not to say positively; I suppose it was: yet I leave it to be cleared by the minutes of the Assembly. But give me leave to say it humbly, that granting both these matters of fact, yet the argument will be found by any indifferent judicious man in the world, able to bear little weight, and in effect but a meer paralogism in the whole probation of the assumption, *viz.* That the Commissioners did sit Judges in the very thing for which they were under trial. For as to the first particular, Might not the Assembly have judged the Protestation before the approbation of the Commission, and yet in judging of it not have judged the thing wherein the Commissioners were yet under trial? Yea verily they might; for why, they might as to that part of it that is alledged in this argument, *viz.* *That the Commissioners proceedings should not be ratified,* have judged that they ought to go on to try them; and if they did find them right, and agreeable to the Word of God, and constitutions of this Kirk, in that case to ratifie them. And I dare take it upon me, that if they did judge the Protestation before the approbation of the Commission, they did no other thing in relation to that particular.

Now to judge that they should gone on in the trial of the proceedings of the Commission to approve them if they should be found as said is; and to judge in the thing wherein the Commission was under trial; that is, to judge upon the proceedings themselves, whether they were agreeable, as said is, or not; are not the same thing, but very different things, as any man that hath half an eye may see and discern; as did not the Members of the Commission 48, judge and vote with others, that that Assembly should go on in trying their proceedings, and ratifie them if they should be found right? And yet will he say for that (nor can it in truth be said) that they judged and voted in that wherein they were under trial? And therefore it is evident, that the Commissioners might sit as Judges of the Protestation, even before the approbation of their proceedings, and yet it no way follows, that they did sit as Judges in the same thing wherein they were under trial; whether the Writer hath reasoned thus so loosely out of mistake, or on purpose, I cannot tell: I can hardly suppose the former of him, considering that this Paper evidences he is no Child; if the latter be true, he hath sure promised to himself very undiscerning Readers, and his carriage is the more foul.

To

To the second. The Commissioners might also give vote with others, who of the Protesters should be cited, and judged them also, and that before the approbation of their own proceedings; and yet so, as it could no waies follow that they had sitten as Judges in the same thing wherein they were under trial, *i. e.* their own proceedings: for why, they might have voted with others, and they did no otherwise vote in the matter of these persons citation, but that they should be cited to answer and be tryed upon the grounds of their declinature and Protestation; and they might also with others have judged the grounds of their Protestation, found them non-relevant, and thereupon sentenced them for protesting against; and declining the Assembly upon such grounds; and yet the Assembly might have found upon trial, the proceedings of the Commission afterwards wrong and censurable, without any contradiction.

There is not a ground of the Protestation, but it might have been found non-relevant, for protesting against the Assembly before the trial of the Commissioners proceedings; and yet nothing been thereby imported more for approbation, then for condemnation of the proceedings of the Commission.

As to the third particular, The force of it fals to the ground with the two formers; for it containeth no new ground, but only a seeming aggravation of them; if they might sit in the Assembly *in plena curia*, and judge *decisive*, they might as well in a Committee voyce *deliberativè & præparatoriè* in these matters, *viz.* upon the Protestation and the Protesters, and yet not judge any thing in the thing wherein themselves were under trial; nor yet done any thing therein that could be any prejudice to the approving or disapproving of their own proceedings: Yea I dare affirm it, that nor the Writer, nor any that was in the Assembly, shall be able to instruct, that any of the Commissioners did judge or vote either in the Assembly, or in any Committee of the Assembly in any act of it, importing either formally, or by way of consequence, approbation or allowance of their own proceedings.

I shall here adde but one word, That any of the Commissioners did vote in the Assembly in the matter relating to the persons of the Protesters, or were upon any Committee for that purpose; it was not to their prejudice, but to their advantage; it being a thing well known I believe to their own consciences, that some of these Commissioners were persons most tenderly affected towards them of any, and so did carry themselves. Now I leave it to the impartial understanding Reader to be judged, if this last argument against the Assembly is able to bear much weight, give it all the props which the Writer requireth to sustain it.

§. And now upon all that hath been said, let every man judge, in the fear, and as in the sight of God, whether any or all the reasons contained in the Protestation it self, or in the later Paper, be relevant grounds to protest against, or nullifie the late Assembly as unfree and unlawfull in the constitution and manner of proceeding thereof; or if in the constitution and manner of procedure therein, there was such encroachments upon the liberties and freedom of Assemblies, as (which the Writer boldly affirms in answer to his first general Objection formed against himself) destroyes almost all the essentials of an Assembly, freedom of election, freedom of voycing, &c. or such encroachments, as moved the Assembly 38. to judge null the pretended Assemblies condemned therein; or if the arguments against the late Assembly be as strong as any brought against these, both which the Writer affirms too boldly, *ibid.* but puts the trial over upon the Reader, wherein I think he did wisely; for I am perswaded, had he taken the pains to make a particular parallel, faithfully comparing the one with the other, he should evidently fail [illegible] of the proof,

and wronged his credit by discovering the rashness of his assertions. Well, as we have cleared the reasons brought against this Assembly, we shall also be at a little pains, according to his desire, to take a view of the reasons brought against these Assemblies; and shall also be at the pains to set down some of them here, that the Reader of this Vindication, who it may be hath not the Acts of Assembly 38, at hand, may consider them.

1. Undue Indiction, as *Luilithgow*, 1606. but seven daies; *Aberdeen*, 1616. but twenty daies before, contrary to clear and express Law, and causing the absence of many Commissioners.

2. Commissioners from Presbyteries not elected, but enjoyned to come, by the Kings or Bishops Letters, or both; *Luilithgow*, 1606. *reas.* 2. *Glascow*, 1610. *reas.* 1.

3. Many Voters, as Judges, having no Commission from the Kirk. *Luilithgow*, 1606. Forty two Noblemen, Officers of Estate, Councellers, Barons and Bishops. *Glascow*, 1610. Thirty Noblemen and Barons, besides the pretended Bishops, *reas.* 2. *Aberdeen*, 1616. Twenty five Gentlemen and Noblemen, and a Minister, *reas.* 3. *Perth*, 1618. Nineteen Noblemen and Barons, eleven Bishops.

4. Many supernumerary Commissioners from Presbyteries and Burroughs in sundry of them.

5. Threatning of Commissioners to vote as the King would, *Glascow*, 1610. *reas.* 3. *Perth*, 1618. with the wrath of authority, imprisonment, banishment, deprivation of Ministers, utter subversion of the State; yea, that neither reasoning nor number of voyces should carry the matter.

6. Bribing of Commissioners. *Glascow*, 1610. *reas.* 3. 5.

7. No election of a Moderator, but usurpation of that place by the Bishop. *Aberdeen*, 1616. *reas.* 1. *Perth*, 1618. *reas.* 2.

8. No ruling Elders sent from Presbyteries. *Glascow*, 1610. *reas.* 1.

9. Grounds of proceeding; not the Word of God, the confession of faith, acts of the Assembly, but the Kings command. *Perth*, 1618. *reas.* 9.

Now Reader compare these with the reasons brought against the late Assembly, together with what hath been said in examination of them, and judge them impartially, if no stronger arguments was brought for the nullity of these pretended Assemblies, then this Writer hath brought against this.

After all those arguments brought to nullifie the late Assembly, the Writer brings some general Objections against their protesting against the Assembly, formed at his pleasure, and answereth them; he needed not been at this pains. I doubt not honest and understanding men, interest in time convenient, will represent reasons enough against it themselves. Nor will we stay to trace him in these, considering how weak and feckless the grounds were whereupon the Protestation was built. The Authors of it, although I question not their finding mercy at Gods hands, yet shall they never be able to wipe away (before the eyes of impartial discerning men of this and succeeding generations, who shall be rightly informed of it) the blot of dividing the Kirk, and exposing our Government to be reproached of the enemies, by the needless and unreasonable propounding of it, and of the bloody unseasonableness of it. It may sting them to remember at what a time they gave it in, when the blood of their Brethren shed in defence of their Country was as yet reeking from the ground; and what contentment and insultation some of them kyth'd in their countenance and speech at that very circumstance of time; and that they would not delay the ingiving of it a day, though hearing, and an admittance was promised to them; and

one,

one, if they could not all be preſent perſonally, might have preſented it in their name: but they would needs force give it in then, though it was near midnight, and the adjournment of the Aſſembly was voted before.

I ſhall only adde but a word or two more; one is this: I put it to ſome of their conſciences, if it was not apprehenſion that the Aſſembly likely would approve the proceedings of the Commiſſioners that moved them indeed to give in that Proteſtation (together with the occaſion of the daies event) more then conſcience of any urgent weight of the grounds whereupon it was built: I give theſe two evidences of this.

1. That they did ſo earneſtly preſs that the Aſſembly might be but adjourned upon that ground, that there were ſuch differences about the proceedings.

2. That until that day ſome of themſelves had ſitten and voted in it as an Aſſembly lawfully conſtitute, compeered in Committees of the Aſſembly; yea ſitten as Members in them; ſome of them being Moderators and Clerks of theſe Committees cognoſced upon Matters that came before the Aſſembly, made reports to the full Aſſembly, concurred with their votes in concluding and making ſundry acts of the Aſſembly, until that very day that the blow was given at *Innerkeithing*; and even then, when the Aſſembly did meet at night to adviſe upon tranſlition, they voted in that buſineſs; it is true, they voted not for tranſlation, but for adjourning of it: but that ſame did neceſſarily import their acknowledgement of it for the preſent a lawful Aſſembly; howſoever now they do profeſs that that was an errour and fault; yet theſe things does clearly enough evidence, that at the time of the ingiving of the Proteſtation, it was not conſcience of the weight of the grounds whereon it was built (as they pretend in the Proteſtation) but ſome other thing, even that which is ſaid before, that moved them to proteſt againſt the Aſſembly.

§. I ſhall in the next place ſpeak a word or two to two paſſages contained in theſe general Objections; becauſe in the one the Writer pretends to hold forth a new argument againſt the lawfulneſs of the Aſſembly; in the other through the ſides of it he ſtrikes at the Aſſembly of *Glaſcow* 38, it ſelf. The former, in the anſwer of the ſecond Objection, is thus:

Albeit there were nothing relating to the point of form (viz. of the conſtitution and manner of procedure of the Aſſembly) yet ſome conceive, and with much appearance of reaſon, that an Aſſembly proceeding wrong upon the matter is a null Aſſembly, becauſe Kirk judicatures have no power to deſtruction, but all their power is to edification; and all power Commiſſioners of a General Aſſembly have, it is by Commiſſion from their Presbyteries, which Commiſſion limiteth them to the Word of God, the Covenant, and acts of former Aſſemblies: And therefore in ſo far as they do any thing contrary to theſe, in ſo far they may be declined, as having no power nor authority for doing any ſuch thing; which furniſheth a new argument not before alledged for declining the Aſſembly; becauſe in the moſt of all, and moſt material of their proceedings, they had proceeded contrary to the truſt committed to them by Presbyteries.

Anſw. We are not now diſputing about the right or wrong of particular facts and conſtitutions of the Aſſembly. The Writer does but affirm that they were wrong, and his ſaying ſo is not to be held *pro ſententia lata*, nor is it an Oracle. But to the preſent matter.

1. Suppoſing (as the Writer doth) and we conceive we have in what goes before made it more clear then a ſuppoſition) nothing could be alledged in the point of form; that which is added here makes nothing for juſtifying the deed of the Proteſters, who proteſted againſt the lawfulneſs of the Aſſembly, when as it had not come

come to any of these proceedings which the Writer alledges to be wrong upon the matter; this sure I am cannot be justifiable.

But 2. If the Writer by these Some who conceive (as he saith) meaneth any sound Orthodox Writers, it had been fit that he had named them, and cited their words and writings wherein they express that conceit, that we might had consideration of them; if he mean some of themselves, their authority can have but little weight in this matter, being but the party without authority speaking in their own cause, and for their own advantage: But for the thing it self which is affirmed here, that an Assembly against which nothing can be alledged in point of form, *viz.* in the constitution of it, or manner of its proceeding, is a null Assembly, *i. e.* according to the state of the question in hand, not having the being of an Assembly, but to be held a meer meeting, destitute of authority because proceeding wrong upon the matter, *i. e.* making some wrong acts, is in my weak judgement a most dangerous and irrational conceit. I confess indeed, that a General Assembly is a Judicatory not absolutely Soveraign, whose constitutions are to be embraced upon its bare and naked authority, as Papists make their Councels to be, but Ministerial, subordinate to, and limited by a rule, and not infallible neither. And therefore that inferiour Judicatories, and private Christians also, must make use of the judgement of discretion to compare their constitutions with the rule, and are not obliged to receive them if they be contrary to, or dissentient from the rule: but to say, that notwithstanding it be constitute, so as nothing is wanting or amiss, as to the point of form requisite in such a Judicatory; yet if it make wrong constitutions upon the matter, that it is to be held no Assembly at all, is to open a gap to confusion, inferreth this absurd consequence, That an Assembly is not compleatly constitute in the being of an Assembly, until all the acts of it be concluded and ended; and that until it be concluded, no man can acknowledge it, or submit to it, but with a reserve. And if it should be so, I see not how it can be avoyded but by the like reason, that acts wrong upon the matter must make a Presbyterie no Presbyterie, yea and a Minister a Non-Minister, which no man will not see is most contrary to the practice of Christ and his Apostles, in relation to the Priests and Kirk judicatories amongst the Jews while they were a Kirk. It is also remarkable, that that solemn Assembly at *Glascow* declaring the nullity of six pretended Assemblies, does never take an argument to prove the nullity of any of them from the matter of the acts made in them; which yet there was very firm occasion to have done, if that Assembly had been of the Writers mind.

The two grounds upon which the Writer saith this conceit hath great appearance of reason, are of that sort of arguments which *Aristotle* calleth ἐν φαινομένων μὴ ὄντων, i. e. *that gave appearance, but no solidity.*

The first is, *That Kirk judicatories have no power for destruction, but all their power is for edification*; he might have taken a larger subject to this enuntiation, even all Judicatories, as well civil as ecclesiastick; for no civil Judicatory, nor Judge, nor Magistrate more then ecclesiastick, hath power ἐξουσίαν, i. e. *moral power*, for destruction, but all their power in this kind is for edification in their kind, *viz.* for procuring or preserving the good and safety of the people (which is *suprema lex*) by just acts. Is then that a good consequence? An Assembly that maketh destructive acts is null, no lawful Assembly: then it's as good consequence, a Parlament that maketh destructive acts is no Parlament, and a King that maketh destructive acts is no King. The truth is, an Assembly that maketh wrong acts, dissentient from the rules it should walk by, acts not as a lawful Assembly should do; nor are these acts made obligatory, nor to be obeyed, but yet nevertheless it may be a true lawful Assem-

bly,

bly, as to the essence and being of an Assembly, and having lawful authority. As the Parliament 48, in carrying on the sinful Engagement, made many acts destructive to the Commonweal, and to the end of a Parlament; which people thought themselves not obliged to obey, and were condemned afterward; and yet that Parlament was never denied to be a lawful Parlament; it was a distinction at that time common, uncontradicted, and for my part I cannot see a reason why it should not have place also in relation to an Assembly, that the acts of it may be unlawful, and yet it self a lawful Assembly.

The other reason is never a whit more to the purpose then the former; for, to let pass what the Writer says, *That whatever power Commissioners of the General Assembly have, it's by Commission from Presbyteries, &c.* (which deserves examination, and if he mean that the power of Commissioners sitting together and voting in the Assembly is but a delegate and deputed power, and so subordinate to the power of Presbyteries, it can hardly be reconciled with sound doctrine concerning Church-government) Supposing, I say, that what he affirms is true, no more follows, but that in such acts as the Assembly makes contrary to the limitations and rules contained therein, they may get no obedience, and that such acts may be declined and protested against. And indeed the Writer himself infers no more but this much, forgetting in so short words what he had propounded as the point to be proven; for these are his very words, [*Therefore in so far as they do any thing contrary to this, in so far they may be declined, as having no power or authority for doing any such thing*] which what is it else but what we have said? But it does not follow, that because they make acts contrary to the limitations of their Commission, therefore the Assembly may be declined and protested against absolutely, as not having the being of a lawful free Assembly: Just as because the Members of a Parlament have all their power by Commission from the People of the Land, Commissioners of Shires from their Shires, Commissioners of Burroughs from their Burroughs, by a temporary election, and (as I humbly conceive) Noblemen too, by a kind of election hereditary from the Commonwealth, and they are limited to the laudable fundamental Laws of the Kingdom, and unto the common principles of justice: It follows well, that if they make acts contrary unto these, they are not obligatory unto obedience, and in so far they may be protested against; but it does not follow, that therefore the Parlament that makes them may be absolutely declined and proceeded against as no lawful and free Parlament. I know there are many differences between these Judicatories in other things; but I think the Writer shall be hardly able to let us see a reason why the parallel in this should not hold good; this is it that takes away the force of the second ground for proving the point that was intended. And I hope by what hath been said, it is sufficiently evidenced, that the Writer hath brought no new considerable reason for the nullity of the late Assembly as to the being of a free lawful Assembly, even suppose sundry of the acts and constitutions were wrong upon the matter (which yet is not granted, and he should have proven, and not nakedly affirmed) but has brought disadvantage to himself, and to the Protestation.

The other passage we would speak a word to, is in his answer to the last Objection: He saith, *To make an act appointing such as decline a General Assembly to be summarly excommunicate, were either to suppose that a General Assembly could not be wrong constitute, or could not erre in their proceedings; or else suppose they should be wrong constitute, and erre, yet they ought not to be declined and protested against; both of which are equally absurd.* Then he saith, *That the Act of the Assembly, 1582. alledged for that purpose, is grossely mistaken, it being no ways against declining unlawful Assemblies* (he is as

groſſely miſtaken while he inſinuateth that any for the late Aſſembly do mean that ſuch an act ſhould be againſt declining any Aſſembly, lawful or unlawful) *but againſt appealing from a lawful Aſſembly to the civil Magiſtrate.* And then cloſes, *That from theſe things it may appear how unwarrantably the Meeting at* Dundee (it muſt be ſtill, for ought he has alledged, the General Aſſembly at *Dundee*) *did upon alledgance of this act fall upon debate of the ſummary excommunication of thoſe who had proteſted.*

Anſw. Any debate that was in the Aſſembly was no great nor long debate upon that matter; and it was not ſo much out of any purpoſe or deſire to do it, as to find out what they might have done by the conſtitutions of this Kirk, if they would have minded ſeverity of cenſure. Neither was it that act of the Aſſembly 1582, ſo much that they looked to, as the authority of the ſolemn Aſſembly at *Glaſcow* 1638, which in the ſentence of excommunication againſt ſix of the pretended Biſhops, and making their proteſting againſt and declining of the Aſſembly, one of the cauſes of their excommunication, ſays in expreſs and formal terms, *Which by the acts of Aſſembly is cenſurable by ſummary excommunication* (whether it doth mean that act 1582. or ſome others, could not be gotten tried at *Dundee* for want of ſom of the regiſters at that time; but ſuch reſpect was had to the authority of that grave Aſſembly, that the truth of the relation made by it was not queſtioned) ſo that all the abſurdities alledged here by the Writer, ſtrike as well againſt that Aſſembly, as againſt any man that alledgeth ſuch an act. And the Aſſembly at *Dundee* ſuppoſing themſelves to be a lawfull free Aſſembly, alledged no other ground in falling upon debate of that matter, then the Aſſembly at *Glaſcow* alledged (be it warrantable or not warrantable) for proceeding to ſentences. But further; the Writer while he would faſten a groſs abſurdity upon an Aſſembly making ſuch an act (and the Aſſembly of *Glaſcow* ſays there hath been ſuch an act made) by a dilemma, he is in a great miſtake himſelf; for (conſidering that the act appointing ſuch to be ſummarly excommunicate, &c. is intended only againſt proteſting againſt and declining of a General Aſſembly, not in any particular act or acts thereof (which we confeſs may be proteſted againſt) but againſt the very being of it as null in it ſelf, and having no authority) there is no neceſſity either of the one ſuppoſe, or yet of the other following upon it: Not of the latter; for the act we ſpeak of ſaith, That decliners of a General Aſſembly ſhould be excommunicate; but an Aſſembly wrong conſtitute, and erring both, or only wrong Conſtitute, is no otherwiſe an Aſſembly then a painted man is a man, *i. e.* no man; nor yet the former, for I ſhall give you a third: It ſuppoſes a General Aſſembly rightly conſtitute, and not erring *de facto*, though not altogether infallible in it ſelf; or rightly conſtitute in all things belonging to the being of a free lawful Aſſembly, though (may be) erring in ſome particular acts; and ordains excommunication to be the cenſure of thoſe that decline and proteſt againſt ſuch an Aſſembly, I mean as to the very being of it. Truly this dilemmatick argument of the Writers might have been as well made againſt that act made by Ieſus Chriſt himſelf, *Mat.* 18. 17. *He that neglects to hear the Church, let him be as a Heathen and a Publican,* i. e. *excommunicate:* For I ſuppoſe that this canon comprehends not only ſuch perſons as having offended againſt particular Brethren, come by degrees of proceſs before the Church, but alſo ſuch as ſhould offend only immediatly againſt that Church it ſelf.

2. It is propounded in general terms, without any expreſs diſtinction or limitation; *He that neglects to hear the Church, let him be excommunicate*: juſt as this, *He that declines a general Aſſembly, let him be excommunicate.* Might not then theſe that heard that canon firſt propoſed, reaſon'd juſt as the Writer doth here, if his arguments were good to make ſuch an act as that is unreaſonable? for it were to ſuppoſe either

either that a Church cannot be corruptly constitute, or cannot erre; or else suppose it were corruptly constitute, and did erre, yet that it ought not to be disobeyed nor declined. But the argument had been but a cavillation; for neither did follow necessarly to be supposed, There was a third, *viz. A Church univocally so called*, i.e. a Church right constitute, and doing duty, though not unerrable in it self. Here I leave the Writer of these additional reasons, and leave all that hath been said hitherto to be impartially pondered by thee Christian Reader, and accordingly judged of. *The Father of Lights give unto thee and all his servants and people in the land, wisdom, even that which is from above, pure and peaceable.*

FINIS.